

**LOCAL RULES OF MONTGOMERY COUNTY FOR THE TIMELY AND FAIR
APPOINTMENT OF COUNSEL FOR INDIGENT DEFENDANTS IN JUVENILE
PROCEEDINGS**

PREAMBLE

As required by the Texas Fair Defense Act, the Juvenile Board of Montgomery County Texas approves the following plan for the qualifications of and appointment of attorneys to guarantee effective representation to juveniles whose families may be indigent.

It is the intent of this plan to comply with Section 51 of the Texas Family Code and with applicable provisions of Article 26.04 of the Texas Code of Criminal Procedure.

PROMPT DETENTION HEARINGS

- A. A child taken into custody must either be brought to a juvenile processing office without unnecessary delay where they may not be detained for longer than six hours pursuant to §52.025, Family Code, or another disposition authorized by §52.02, Family Code, including referral to the office designated by the juvenile board as intake for the juvenile court. The intake officer shall process the child according the requirement of §53.01, Family Code, and shall also inform the child and the child's parents of the right to appointed counsel if they are indigent and provide a form for the purpose of determining eligibility for appointment of counsel. If the child is not released by intake, then a Detention Hearing shall be held not later than the second working day after the child is taken into custody unless the child is detained on a Friday, Saturday or listed holiday in which case the detention hearing shall be held on the first working day after the child is taken into custody.
- B. Prior to the detention hearing the court shall inform the parties of the child's right to counsel and to appointed counsel if they are indigent, and of the child's right to remain silent as to the alleged conduct.
- C. The detention hearing may be conducted without the presence of the child's parent(s) or other responsible adult(s); however, in these cases the court must immediately appoint counsel or a guardian ad litem to represent the child.
- D. The court shall provide the attorney for the child access to all written matter to be considered by the Court in making the detention decision.

DETERMINATION OF INDIGENCE FOR JUVENILES

- A. A child is presumed indigent if any of the following conditions or factors are present:
 - 1. The net household income of the child's parent(s) or other person(s) determined responsible for the support of the child does not exceed 125% of the Poverty Guidelines as revised annually by the United States Department of Health and

Human Services and published in the Federal Register;

2. The child's parent(s) or other person(s) determined responsible for the support of the child is currently serving a sentence in a correctional institution, is currently residing in a public mental health facility, or is subject to a proceeding in which admission or commitment to such a mental health facility is sought; or
 3. The difference between the monthly net household income and reasonable necessary expenses of the child's parent(s) or other person(s) determined responsible for the support of the child is less than \$500.00. Reasonably necessary expenses should include but are not limited to: rent or mortgage, food/groceries, car payment, car insurance, health insurance, medical bills, and utilities (water, electric, gas, and phone.
- B.** The child who does not meet any of the standards above shall nevertheless be considered indigent if the child's parent(s) or other person(s) responsible for the child is unable to retain private counsel without substantial hardship. In considering if obtaining private counsel will create a substantial hardship, the appointing authority shall take into account:
1. the nature of the charge(s);
 2. anticipated complexity of the defense;
 3. the estimated cost of obtaining competent private legal representation for the matter(s) charged;
 4. the amount needed for the support of the child, the child's parent(s)/person(s) responsible, and other dependents of the child's parent(s)/person(s) responsible;
 5. child's parent(s)' income or the income of other person(s) determined responsible for the support of the child;
 6. source of income;
 7. assets and property owned by the child, child's parent(s), or other person(s) determined responsible for support of the child;
 8. outstanding obligations;
 9. necessary expenses; and
 10. the number and ages of any siblings of the child.
- C.** Factors NOT to be considered in determining indigence:

1. The resources available to friends or relatives of the child, other than the child's parent(s) or other person(s) deemed responsible for the child, may not be considered in determining whether the child is indigent.
2. Only the child's parent(s) or other person(s) responsible for the child and the child's financial circumstances as measured by the financial standards stated in this rule shall be used as the basis for determining indigence.

PROMPT APPOINTMENT OF COUNSEL FOR CHILDREN IN DETENTION

A. Appointment of Counsel for Children in Detention.

1. Prior to the detention hearing the court shall inform the parties of the child's right to counsel and to appointed counsel if they are indigent, and of the child's right to remain silent as to the alleged conduct.
2. Unless the court finds that the appointment of counsel is not feasible due to exigent circumstances, the court shall appoint counsel within a reasonable time before the first detention hearing is held to represent the child at that hearing.
3. Prior to the initial detention hearing, the court shall provide the attorney for the child with access to all written matter to be considered by the court in making the detention decision.
4. If there is no parent or other responsible adult present, the court must appoint counsel or a guardian ad litem for the child.
5. If the juvenile is detained, the child has an immediate right to counsel. If counsel has not already been appointed, the court must either appoint counsel or direct the juvenile's parent or other responsible adult to retain an attorney promptly. The court may enforce an order to retain counsel by appointing an attorney to represent the child and requiring that the child's parent or other responsible adult reimburse the court for attorneys' fees.
6. Upon appointment, the court administrator shall notify the appointed attorney by fax, e-mail, or personal contact of the appointment and the scheduled hearing time and date.
7. The appointed attorney shall make every reasonable effort to contact a child in detention by the end of the first working day after receiving the notice of appointment or to inform the court that the appointment cannot be accepted. Contacting the child in detention may be by personal visit (including contact during a detention hearing).
8. An attorney appointed for a detention hearing shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is

appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.

9. Court-appointed attorneys shall make every effort to comply with the Texas State Bar Code of Ethics for communication with a client.

B. Appointment of Counsel for Children not Detained at Intake

1. If the child is released from detention and if a petition to adjudicate or a motion to modify is filed, the juvenile court will use the financial forms gathered at intake to make a determination of indigence. If no financial information is available, the juvenile court shall promptly summon the child's parent/guardian/custodian to the court so that financial information may be gathered for a determination of indigence.
2. If the court makes a finding of indigence, the court shall appoint an attorney on or before the fifth working day after:
 - a. The date a petition for adjudication or discretionary transfer hearing has been served on the child; or
 - b. A motion to modify disposition seeking commitment to TYC or placing in secure correctional facility has been filed.
3. If the family does not qualify for appointed counsel or if the parent guardian is not available, and the family fails to provide an attorney, the juvenile court may appoint an attorney in any case in which it deems representation necessary to protect the interests of the child.
4. The prosecuting attorney/court clerk shall notify the juvenile court upon the filing of and return of service of a motion to modify or the return of service of a petition for adjudication or discretionary transfer.
5. An attorney appointed for a detention hearing shall continue to represent the child until the case is terminated, the family retains an attorney, or a new attorney is appointed by the juvenile court. Release of the child from detention does not terminate the attorney's representation.
6. Court-appointed attorneys shall make every effort to comply with the Texas State Bar Code of Ethics for communication with a client.

MINIMUM ATTORNEY QUALIFICATIONS

A. General qualifications for attorneys on all juvenile appointment lists

The Juvenile Court Judge(s) shall establish attorney Appointment Lists for Trial and Appeal cases. Attorneys who desire to represent indigent persons shall file with the Board of Judges (1) a sworn Application to Be Placed on Public Appointment List for Montgomery County, attached hereto as Exhibit "A", (2) an Attorney Certification of Knowledge of Local Rules for the Timely and Fair Appointment of Counsel for Indigent Defendants, attached hereto as Exhibit "B". Attorneys must meet the following minimum requirements in order to be placed on the Public Appointment List:

1. Ensure all information on their application is correct;
2. Must be a licensed practicing attorney and a member in good standing of the State Bar of Texas;
3. Complete a minimum of six (6) hours of CLE in the area of criminal law and six (6) hours of CLE in the area of Juvenile Law each year. The attorney must file a certificate with the court administration office each year attesting to completion of the required CLE or submit documentation showing that the attorney is certified as a specialist in criminal law. Continuing legal education activity completed within a one-year period immediately preceding an attorney's initial reporting period may be used to meet the educational requirements for the initial year. Continuing legal education activity completed during any reporting period in excess of the minimum of six (6) hours for such period may be applied to the following period's requirement. The carryover provision applies to one year only;
4. The attorney may not have been the recipient of any public disciplinary action by the State Bar of Texas or any other attorney licensing authority of any state or the United States within the last Three (3) years;
5. Maintain their principal law office in Montgomery County, Texas. The attorney must disclose the geographic location by city or town and physical address of their principal office. The attorney shall have only one principal office;
6. The ability to produce typed motions and orders, and the attorney's office shall be capable of receiving email, fax, and telephone calls; and
7. Notify the OCA office promptly, in writing, of any change of address or contact information and of any matter that would disqualify the attorney by law, regulation, rule or under these guidelines from receiving appointments to represent indigent defendants.
8. An attorney shall submit by October 15th each year a statement that describes the percentage of the attorney's practice time that was dedicated to work based on

appointments accepted in Montgomery County for adult criminal cases for the prior 12 months that begins on October 1 and ends on September 30. The report must be submitted through the online form to the Texas Indigent Defense Commission.

9. All attorneys shall reapply biennially for approval to the Public Appointment List(s) and must be approved by a majority of the Juvenile Board members. The application renewal date is July 01, 2015, and on the same day of every other year thereafter.

B. Trial Qualifications and Appointments

A master list will be maintained of attorneys who request and are approved for appointment for trial court cases based on the following criteria.

1. Meets general qualifications outlined above in Paragraph A;
2. Approved by the majority of the Judges;
3. Trial experience;
4. Special Language Qualification;
5. Demonstrate proficiency representing Juvenile Respondents, or
6. On the Appointment List for Felony Contract Defender Program under the Local Rules For the Fair Appointment of Counsel For Indigent Defendants in Felony Cases, Montgomery County District Courts Plan

C. Appellate Qualifications and Appointments

A separate master list will be maintained of attorneys who request and are approved for appointment on those cases in which an appealable order of judgment has been entered.

1. An attorney must meet at least one of the following criteria:
 - a. Currently board certified in Criminal Law or Appellate Law by the Texas Board of Legal Specialization; or
 - b. Personally authored and filed at least three criminal or civil appellate briefs or post-conviction writs of habeas corpus; or
 - c. Worked as a briefing clerk of an appellate court for a period of at least one year; or
2. The applicant attorney has met the appellate qualifications for appointment in the Montgomery County District Felony Courts.

D. Special Language Qualifications and Appointments

1. Each attorney who speaks more than one language, or who can communicate using sign language, should note this fact when requesting appointment to any Public Appointment List.
2. Whenever possible, the Juvenile Court shall appoint an attorney that is capable of communicating in a language understood by the Juvenile-Respondent.

METHODS OF APPOINTMENTS

In accordance with Code of Criminal Procedure 26.04(g)(h) and the Title I. Administration, Part 8 Texas Judicial Council, Chapter 174. Indigent Defense Policies and Standards, the Juvenile Board and the Commissioners Court of Montgomery County can engage in a countywide alternative program to be used in combination with the Public Appointment Lists provided above. This countywide alternative program can include a Contract Defender Program in conformity with the Contract Defender Program Rules adopted by the Task Force on Indigent Defense.

A. APPOINTMENT OF CONTRACT DEFENDER

1. SCOPE OF APPOINTMENT

Upon approval by the Appointing Authority (Juvenile Board in Montgomery County), as defined in Tx. Administration Code, 174.10 (a), of an individual or firm selected to provide indigent juvenile representation, the Contracting Authority (the Commissioner's Court of Montgomery County) as defined in the Tx. Administration Code 174.10 (c), may enter into a contract with the selected individual or firm to provide the majority or of all legal representation to indigent juvenile offenders entitled to representation under the Texas Juvenile Justice Code. During the term of such contract, the contract attorney(s) shall be appointed to represent any juvenile offenders determined to be indigent according to these rules, except:

- a. Contract attorneys shall not be appointed or obligated under the contract to provide representation to juvenile charged with delinquent conduct arising from the criminal offense of Capital Murder;
- b. Contract attorneys shall not be appointed or obligated under the contract to provide representation to juveniles when the contract attorney or contract firm is disqualified from such representation or has a conflict of interest under the Texas Disciplinary Rules of Conduct; and

- c. Contract attorneys shall be appointed or obligated under the contract to provide representation to juveniles once they are placed in the Montgomery County Power Recovery Court.

2. TERMS OF CONTRACT

Any contract executed by the Commissioners Court of Montgomery County and an attorney or law firm under these rules shall provide:

- a. The current contract shall provide for an initial term of three (3) years, **October 1, 2016 through September 30, 2019**. Said contract may be renewed upon the consent of the Juvenile Board, the Commissioners Court and attorney or law firm selected for one additional three-year term; provided, there shall be a maximum of one (1) additional three-year renewal term.
- b. The attorney or law firm selected shall agree to make the representation of indigent juveniles the priority of their practice and file few, if any, motions for continuance in juvenile cases to which they have been appointed on the grounds of a conflicting setting in another court.
- c. The attorney or law firm shall agree to meet or exceed the IJA-ABA Standards of Juvenile Justice relating to the quality of services provided by court-appointed attorneys to indigent juveniles. The contract shall state a policy to assure that the attorney or firm selected shall not provide representation to indigent juveniles when doing so would involve a conflict in interest.
- d. The attorney or firm selected will be solely responsible for all routine expenses associated with the representation of indigent juveniles to which they are appointed under the contract. Routine expenses include paralegal and secretarial services, library expense, office supply and equipment expenses, telephone services, facsimile transmission services, copying expenses, postage and parcel delivery expenses, transportation expenses incurred within Montgomery County and the counties contiguous with Montgomery County and expenses associated with serving subpoenas on and contacting witnesses. The attorney or firm selected will receive reimbursement for reasonable and necessary expenses, including expense for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.
- e. The amount of compensation under the terms of the contract shall be stated in the contract and payable at such frequency as determined by the contract, with no

provision for advances. The contract shall require the contract attorney or firm to submit an itemized fee voucher to be approved by the juvenile judge prior to be forwarded to the County Auditor for approval of payment.

- f. The contract shall identify the attorneys who will perform legal representation and prohibit the substitution of other attorneys without prior approval of the Juvenile Court and the Commissioner's Court of Montgomery County. Nothing in this contract shall prohibit the contract attorney or firm from being relieved or replaced in accordance with the Texas Family Code or the Texas Code of Criminal Procedure.
- g. The contract shall set the maximum number of cases or workload each attorney may be required to handle pursuant to the contract.
- h. The contract shall state that two attorneys will be available in Juvenile Court for each juvenile docket having more than nine (9) adjudications set in a four (4) hour period. Otherwise, at least (1) attorney shall be present at each Juvenile Docket.

3. PROCEDURE FOR AWARD OF CONTRACT

Unless a contract is a renewal of an existing contract under these rules, the following procedures shall be used in awarding contracts to an attorney or law firms:

- 1. For the initial contract, the County Purchasing Office will prepare and submit to the Commissioner's Court a formal Requests for Proposals. Once approved by the Commissioner's Court, the Request for Proposals will be publicized in a local newspaper. After publication, the Request for Proposal can be mailed, faxed or emailed to anyone requesting a copy. In addition, the County Purchasing Office will email a copy of this Request for Proposal to every attorney currently on the County's Appointment List for Juvenile and Criminal Cases. In addition, the Juvenile Board will arrange for the Montgomery County Bar Association President and the Montgomery to notify their members that the Request for Proposal can be obtained by contacting the Montgomery County Purchasing Department.
- 2. Upon passing of the deadline for submission, the proposals will be reviewed by the Advisory Committee of the Juvenile Board for recommendations to the full Juvenile Board.
- 3. Once the Advisory Committee of the Juvenile Board and the Juvenile Board have had a reasonable opportunity to review the proposals, the Juvenile Board shall select an individual or firm and submit the selected proposal to the Commissioners Court for approval. If approved by the Commissioners Court, the Commissioners

Court may accept the proposal of the selected individual or firm and enter into a contract for services in accordance with the requirements of these rules.

4. The criteria for selections and approval of the individual or law firm shall not be based solely upon the low bid. Consideration of the selection must be based upon at least the following factors:
 - a. Experience and qualifications of the individual or firm submitting the proposal;
 - b. past performance of the individual or firm submitting the proposal in representing juveniles;
 - c. disciplinary history of the individual or firm submitting the proposal with the State bar;
 - d. ability of the individual or firm submitting the proposal to comply with the terms of the contract; and
 - e. the cost for the services.
5. Upon execution of the contract by the individual or firm selected and the Commissioner's Court, the Juvenile Courts will exclusively appoint the contract attorney or law firm, subject to the limitations described in these rules.
6. It is the intent of these rules that the contract be executed prior to the final adoption by the Commissioner's Court of the County's annual budget and that the term of the contract be concurrent with the county's fiscal year.

4. PROCEDURES FOR RENEWAL OF CONTRACT

1. Not later than June 1st prior to the expiration of the contract, the contract attorney or firm will prepare and submit to the Contracting Authority and to the Juvenile Board a letter of intent to renew the contract, specifying any proposed changes to the terms of the contract.
2. The Contracting Authority shall immediately forward to the Commissioner's Court and the Juvenile Board a copy of the contract attorneys or firm's letter of intent to renew the contract and any proposed changes to the terms of the contract.
3. The Juvenile Board shall review the contract attorney or firm's letter of intent to renew the contract. If a majority of the Juvenile Board object to renewal of the contract, the Juvenile Board Chair shall prepare and deliver a letter of objection to renewal of the contract to the Contracting Authority no later than July 1st prior to the expiration of the current contract.

4. If no letter of objection by the Juvenile Board for renewal of the contract is received by the Contracting Authority by July 1st prior to expiration of the current contract, the Contracting Authority may renew the contract on such terms that do not conflict with these Rules.
5. If a letter of objection by the Juvenile Board for renewal of the contract is received by the Contracting Authority on or before July 1st prior to expiration of the contract, the process for award on a new contract shall immediately begin so that the County has a contract to commence upon expiration of the contract resulting from the Request for Proposal.
6. It is the intent of these rules that any renewal contract be executed prior to the final adoption by the Commissioner's Court of the County's annual budget and the term of the contract to be concurrent with the county's fiscal year.
7. Notwithstanding anything to the contrary in these rules, no contract may be renewed more than four (4) times without rebidding the contract in accordance with Title I. Administration, Part 8 Texas Judicial Council, Chapter 174.

5. QUALIFICATIONS

Each attorney appointed to represent an indigent juvenile under the contract shall meet and maintain throughout such representation each of the following minimum qualifications.

1. The contract attorney or members of the contract law firm must be an attorney(s) licensed to practice law in the State of Texas and maintain that license in good standing throughout the contract.
2. a. The contract attorney or a member of the contract law firm must be
 - i. Board certified in Criminal Law or Juvenile Law, or
 - ii. Qualified as a Contract Defender under the Local Rules for the Fair Appointment of Counsel for Indigent Defendants in Felony Cases, Montgomery County District Courts Plan.
 - iii. All attorneys of the contract law firm must be qualified or eligible to be qualified under the Local Rules of Montgomery County for the Timely and Fair Appointment of Counsel for Indigent Defendants in Misdemeanor Cases in the County Courts at Law.
- b. Additional Criteria and Qualifications to include the Attorney Qualifications for the Contract Defender Program outlined in the Local Rules for the Fair Appointment of Counsel for Indigent Defendants in Felony Cases, Montgomery County District Courts Plan:

- i. Approved by the majority of the Juvenile Board
 - ii. Trial experience
 - iii. Special Language Qualification
 - iv. Demonstrate proficiency representing Juvenile Respondents
 - v. On the Appointment List for a Felony Contract Defender under the Local Rules for the Fair Appointment of Counsel for Indigent Defendants in Felony Cases, Montgomery County District Courts Plan.
- c. The contract attorney or a member of the contract law firm must be qualified as a Spanish speaking attorney under the Local Rules of Montgomery County For The Timely And Fair Appointment Of Counsel For Indigent Juvenile Respondents.
- d. The contract attorney or a member of the contract law firm must be qualified to handle Juvenile Appeals under the District Local Rules of Montgomery County For The Timely And Fair Appointment Of Counsel For Indigent Juvenile Respondents.
- 3. If only one attorney is contracted, that contract attorney must be a resident of Montgomery County, Texas; if a law firm is contracted, the contract firm must maintain its principal office located in Montgomery County, Texas.
- 4. The contract attorney or any member of a contract law firm may not be or have been the recipient of any disciplinary action by the State Bar of Texas or any other attorney licensing authority of any state of the United States.
- 5. The contract attorney or any member of a contract law firm may not have ever been convicted of any felony or misdemeanor involving moral turpitude. For the purposes of the requirement, "convicted" includes, but is not limited to, serving any period of probation, community supervision, or deferred adjudication supervision under any order of a court of records, regardless of whether the charges were ultimately dismissed.
- 6. The contract attorney or any member of a contract law firm may not be currently or at any time during the term of the contract delinquent of payments of obligations to the State Bar of Texas or to any taxing authority, including Montgomery County, the State of Texas and the United States of America.

7. The contract attorney or any member of a contract law firm may not be currently of at any time during the term of the contract delinquent in the payment of any child support obligation.
8. The contract attorney or contract law firm must maintain a policy of malpractice insurance in a coverage of amount of each claim of at least \$500,000.00. This policy of insurance must survive the termination of the attorneys or the law firm's contract for any claim arising from actions occurring during the term of the contract.
9. The contract attorney or any member of a contract law firm must comply with the minimum continuing legal education requirements of the Local Rules of Montgomery County.
10. The contract attorney or member of the contract law firm must demonstrate and pledge willingness and ability to work with the Task Force for Indigent Defense, the Bureau of Justice, and all state and federal organizations to obtain grant monies to reimburse the County for all or a portion of juvenile indigent defense.

APPOINTMENT OF NON-CONTRACT ATTORNEYS

1. SCOPE OF APPOINTMENT

In those circumstances where:

- (a) the juvenile is charged with charged with delinquent conduct arising from the criminal offense of Capital Murder;
- (b) the contract attorney or law firm is disqualified from representation of a juvenile;
- (c) the contract attorney or law firm has a conflict of interest under the Texas Disciplinary Rules of Conduct; or
- (d) the contract has been terminated or expired without renewal;

An attorney shall be appointed from the public appointment list established in IV above appropriate to the criminal offense forming the basis of the alleged delinquent conduct. The juvenile judge or AD making such appointment shall utilize the rotation system as set for below. Each attorney appointed must meet the minimum objective qualifications established by the Montgomery County Juvenile Board.

2. ROTATION

1. The appointing authority will identify which of the appointment lists, discussed in the Section III (attorney qualifications), is most appropriate based on the accusations against the defendant and will appoint the attorney whose name is first on the list,

unless the court makes a finding of good cause on the record for appointing an attorney out of order. Good cause may include:

- a. The defendant requesting counsel does not understand English, in which case the judge will appoint the lawyer whose name appears next in order and speaks the clients' language, if one is available.
 - b. The defendant has an attorney already appointed on a prior pending or concluded matter. The same attorney will be appointed to the new matter, unless the attorney is not on the list for the type of offense involved in the current case; or
 - c. Other good cause exists for varying from the list.
2. Once appointed, an attorney's name will be moved to the bottom of the appointment list. An attorney who is not appointed in the order in which the attorney's name appears on the list shall remain next in order on the list.

3. **APPLICATION**

Attorneys who desire to represent indigent persons shall file with the Board of Judges (1) a sworn Application To Be Placed On Public Appointment List For Montgomery County, attached hereto as Exhibit "A." (2) An Attorney Certification of Knowledge of Local Rules for the Timely and Fair Appointment of Counsel for Indigent Defendants, attached hereto as Exhibit "B". The Juvenile Board shall meet and approve a list of eligible attorneys for each List.

A copy of each Public Appointment List shall be posted outside the County Clerk and District Clerk's Offices and available to the public upon request.

PROCEDURES FOR REMOVAL OF ATTORNEY FROM PUBLIC APPOINTMENT LIST

- A. **Cause for Removal** An attorney may be removed from all Public Appointment Lists and any active case he/she has been assigned for the following reasons:
1. Suspension or removal of a lawyers law license;
 2. Conviction for any felony, or misdemeanor involving a crime of moral turpitude;
 3. Indictment for a felony or a filing of an information against the attorney involving a crime of moral turpitude;
 4. Intentional material misrepresentation by the attorney on the application for appointment.
 5. Failure to fulfill his/her duties required by law, Canons of Ethics, Local Rules, these Rules or any conduct deemed inappropriate by a panel of judges.

B. **Procedure for Removal.** Removal from the Public Appointment Lists pursuant to IV (A) or IV (B) shall be conducted as follows:

1. **Complaint Filed.** The Director of the Office of Indigent Defense (OID) or any Judicial Officer of Montgomery County, Texas who presides over a court that maintains a public appointment list may file a complaint against any attorney requesting disciplinary action with the Office of Indigent Defense. The complaint shall be in writing, and shall specify the details of the conduct in question. The complaint may include affidavits or exhibits supporting the allegation of misconduct.
2. **Notice to Counsel.** Upon receipt of the complaint, the Director of the OID shall immediately forward a copy of said complaint to the attorney in question.
3. **Response May be Filed by Counsel.** The attorney shall have ten (10) business days from receipt of the complaint to file a response with the OID. The response shall be in writing and may contain any affidavits or exhibits to support the response.
4. **Panel to Review Complaint/Response.** The Director of the Office for Indigent Defense shall convene a panel of judges to review the complaint and the response, if any. The panel shall consist of three presiding judges selected at random to preside over the removal hearing. The judge filing the request shall not be a member of the panel. The panel shall meet in closed session and review all the documents, exhibits and affidavits filed with the Office of Indigent Defense.
5. **Determination by Panel of Action.** The panel shall make a determination whether disciplinary action should be taken. Disciplinary action may consist of a private or public reprimand, temporary removal from all or some of the public appointment lists for up to one year, or permanent removal from public appointment lists.

C. **No Right of Appeal.** The panel of judges has been granted the authority to act on behalf of the Board of Judges and the Juvenile Board. The decision of the panel is final with no right of review or appeal.

FEE AND EXPENSE PAYMENT PROCESS

A. **CONTRACT DEFENDER.** Any contract executed by the Commissioners Court of Montgomery County and an attorney or law firm under these rules shall provide:

1. The attorney or firm selected will be solely responsible for all routine expenses associated with the representation of indigent juveniles to which they are appointed under the contract. Routine expenses include paralegal and secretarial services, library expenses, office supply and equipment expenses, telephone services, facsimile

transmission services, copying expenses, postage and parcel delivery expenses, transportation expenses incurred within Montgomery County and the counties contiguous to Montgomery County, and expenses associated with serving subpoenas on and contacting witnesses. The attorney or firm selected will receive reimbursement for reasonable and necessary expenses, including expense for investigation and for mental health and other experts consistent with Article 26.05(d), Code of Criminal Procedure. When possible, prior court approval should be obtained before incurring expenses for investigation and for mental health and other experts. Other expenses incurred without prior court approval are subject to reimbursement at the discretion of the Court.

2. The amount of compensation under the terms of the contract shall be stated in the contract and payable at such frequency as determined by the contract, with no provision for advances. The contract shall require the contract attorney or firm to submit an itemized fee voucher to be approved by the juvenile judge prior to being forwarded to the County Judge for approval and payment.

B. NON-CONTRACT ATTORNEYS. In those circumstances where:

The attorney shall be compensated and reimbursed for expenses according to schedules established by the Montgomery County Local Rules for Juvenile Defense.

STATE OF TEXAS - COUNTY OF MONTGOMERY

SCHEDULE OF HOURLY FEES

1.	ATTORNEYS	\$125.00
2.	LEGAL ASSISTANTS	\$50.00

ATTORNEYS ARE TO BILL BY THE .1 OF AN HOUR

Court appointed counsel shall be compensated for all reasonable and appropriate services rendered in representing the accused. Compensation shall be reasonable for time and effort expended and will be in accordance with a fee schedule adopted and approved by the Juvenile Board.

A. PAYMENT PROCESS - No payment of attorney's fees will be made other than in accordance with the rules set forth below.

1. An appointed attorney shall fill out and submit a fee voucher to the court for services rendered.
2. The trial judge presiding over the proceedings shall review the request for compensation and either approve or disapprove of the amount requested.

- a. If a judge disapproves a request for compensation, the judge shall make written findings, stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.
- b. An attorney whose request for payment is disapproved or is not otherwise acted on by the 60th day after the date the request for payment is submitted may appeal the disapproval or failure to act by filing a motion with the presiding judge of this administrative judicial region.

B. PAYMENT OF EXPENSES:

Court appointed counsel will be reimbursed for reasonable and necessary expenses incurred, including expenses for investigation and for mental health and other experts. Expenses incurred with and without prior approval shall be paid according to the procedures set forth below. Whenever possible, prior court approval should be obtained before expenses are incurred.

1. PROCEDURE WITH PRIOR COURT APPROVAL:

- a. Appointed Counsel may file with the trial court a pretrial ex parte confidential request for advance payment of investigative and expert expenses. The request for expenses must state the below, as applicable:
 - i. The type of investigation to be conducted or the type of expert to be retained;
 - ii. Specific facts that suggest the investigation will result in admissible evidence or that the services of an expert are reasonably necessary to assist in the preparation of a potential defense; and
 - iii. An itemized list of anticipated expenses for each investigation and/or each expert.
- b. The court shall grant the request for advance payment of expenses in whole or in part if the request is reasonable. If the court denies in whole or in part the request for expenses, the court shall:
 - i. State the reasons for the denial in writing;
 - ii. Attach the denial to the confidential request; and
 - iii. Submit the request and denial as a sealed exhibit to the record.

2. PROCEDURE WITHOUT PRIOR COURT APPROVAL:

- a. Appointed counsel may incur investigative or expert expenses without prior approval of the court. On presentation of a claim for reimbursement, the court shall order reimbursement of counsel for the expenses, if the expenses are reasonably necessary and reasonably incurred. Unreasonable or unnecessary expenses will not be approved.

RETENTION OF RULES

These Rules shall be filed and maintained in the Office of Court Administration, the office of the Administrative District Judge, the office of the Administrative County Court at Law Judge, and the offices of the District and County Clerk.

Approved this day _____.

Approved this day November 19, 2004.

Adopted this day October 7, 2005.

Adopted this day October 3, 2008.

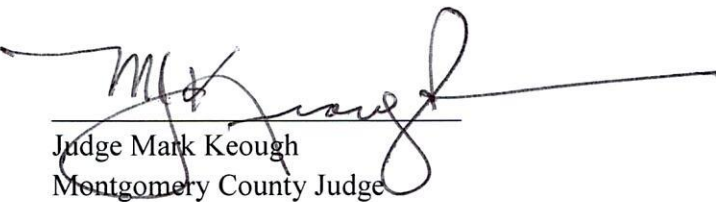
Adopted this day October 7, 2010.

Adopted this day January 4, 2013.

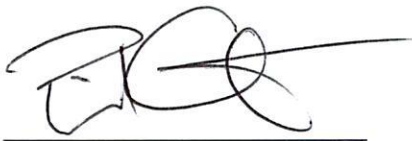
Amended the 4th day of October, effective October 4, 2013.

Amended the 7th day of November, effective November 07, 2014.


Amended the 6th day of November, effective November 06, 2020.



Judge Mark Keough
Montgomery County Judge




Judge Phil Grant
9th District Court



Judge Dennis Watson
County Court at Law No. 1



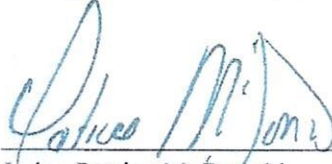
Judge Lisa Michalk
221st District Court



Judge Claudia Laird
County Court at Law No. 2



Judge Kristin Bays
284th District Court



Judge Patrice McDonald
County Court at Law No. 3



Judge Kathleen Hamilton
359th District Court



Judge Mary Ann Turner
County Court at Law 4



Judge Jennifer J. Robin
410th District Court



Judge Keith Stewart
County Court at Law 5



Judge Tracy A. Gilbert
418th District Court



Judge Patty Maginnis
435th District Court



Judge Vince Santini
457th District Court