

**MONTGOMERY COUNTY RULES OF ADMINISTRATION
FOR MISDEMEANOR CASES**

Purpose

The primary purpose of the Rules of Administration for Misdemeanor Cases is the management of the court dockets sensibly, efficiently and fairly. These rules are to be an aid to the just disposition of cases without unnecessary delay or expense.

Authority

These Rules of Administration for Misdemeanor Cases are made pursuant to Texas Government Code Section 74.093.

Definitions

“Misdemeanor Trial Judges” shall mean those Judges who preside over the County Courts of at Law of Montgomery County and who regularly receive more than ten percent of the misdemeanor cases.

**Rule 1
General**

1.1 These rules shall be applicable to all misdemeanor cases filed in the County Courts at Law of Montgomery County. These Rules and their subparts are adopted in order to achieve the time standards in compliance with the Supreme Court Rules of Judicial Administration.

1.2 Each numbered or lettered paragraph of these Rules of Administration for Misdemeanor Cases shall be considered to be separate and distinct from all other portions hereof. If any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not declared to be improper.

**Rule 2
Exchange of Cases**

The courts may at any time exchange cases and benches to accommodate their dockets or to expedite the court’s trials.

Rule 3
Previous Judgments or Filing

Any claim for relief based upon a previous judgment shall be assigned to the court in which the case is currently filed that contains the previous judgment.

Rule 4
Presiding For Another Judge

4.1 In all cases where a judge presides for another court, the case shall remain pending in the original court; and the clerk of court shall reflect the name of the presiding judge in the case filing system.

4.2 If the judge to whom a case is assigned is not available to consider an emergency or exigent matter the litigant may present the matter to another misdemeanor judge or associate criminal judge for consideration. A list of these judges and their contact information will be maintained by the Office of Court Administration.

Rule 5
Fair Distribution of Cases

The Administrative County Court at Law Judge may transfer cases between County Courts at Law if he/she finds that a court has an inequitable burden due to illness, complex litigation, trial schedule, or other sufficient reasons.

Rule 6
Attendance at Settings

6.1 Defendants must be personally present in court at all Motions Docket, Plea Docket, Call Docket, and Trial Docket settings as set forth below.

6.2 For all other settings, (Arraignment and Pre-Trial settings), the Defendant need not be present for the docket if a waiver of arraignment/reset with scheduling order is filed with the Court prior to noon the business day immediately prior to the Arraignment/Pre-Trial setting.

Rule 7
Self-Represented Defendants

7.1 Self-Represented Defendants must be personally present in court at all Court settings, unless the self-represented Defendant's presence is expressly waived.

7.2 At Defendant's first appearance, Arraignment Setting, Defendant will be presented with a "Right to Counsel/Dangers and Disadvantages" form giving the Defendant the opportunity to hire an attorney, interview for a court-appointed attorney, or to waive right to attorney and proceed pro se. If Defendant decides to hire an attorney, or apply for a court-appointed attorney, the case will be reset to allow Defendant time to hire an attorney, or to return with a court-appointed attorney. Defendant will appear at the next setting with either hired or court-appointed attorney, or be prepared to represent himself and placed on a Scheduling Order.

Rule 8
Scheduling Order Settings and Resets

8.1 Arraignment Settings

- 8.1.1 Defendants must be personally present in court, unless a waiver of arraignment and reset with scheduling order is filed with the Court prior to noon the business day immediately prior to the arraignment setting.
- 8.1.2 Defendants who appear at arraignment without counsel will receive a reset, not to exceed thirty (30) days, for the purpose of retaining counsel or obtaining court appointed counsel.
- 8.1.3 At the first setting on a Motion to Revoke, the Motion to Revoke shall be set for final trial on the next Motions Docket, except with leave of Court.

8.2 Pre-Trial Settings

- 8.2.1 From the date the attorney makes an appearance in the case, or it is determined that the Defendant is proceeding pro se, the case will be set out approximately 75 days for a Pre-Trial Setting from the date of the original arraignment setting.

- 8.2.2 The Court maintains the discretion to fast-track certain cases, and the period in between settings can be shortened, e.g. all Assault Family Violence cases will have settings every three weeks, unless an agreement between the State and the Defendant requires a longer interval in between settings.
- 8.2.3 During this reset period, the attorney and/or self-represented Defendant is expected to obtain discovery from the prosecution (including any applicable video or audible tapes), negotiate a plea agreement and be prepared on that setting to resolve the case.
- 8.2.4 Defendants must be personally present at all Pre-Trial settings unless a reset has been granted by the Court upon the agreement of the State and the Defendant and filed with the Court prior to noon the business day immediately prior to the pretrial setting.

8.3 Motions Settings

- 8.3.1 Defendants must be personally present at all Motions settings.
- 8.3.2 Either party may file a Motion(s) and set same for hearing at either a Pre-Trial or Motions Docket with at least three (3) days notice to the other party.
- 8.3.3 Motions requiring testimony shall be set on a Motions Docket. Motions not requiring testimony may be heard on a Pre-Trial Docket. The Court maintains the discretion to carry Motions with the trial or to be heard in advance of trial.
- 8.3.4 Motions that are evidentiary and dispositive of a case can be set on a Motions Docket. Otherwise, the Court will carry Pre-Trial Motions with the trial.
- 8.3.5 Each Court has an approved standard Discovery Order, which may be presented to the Judge of the Court at any time, but not later than 30 days prior to trial. Each Court has an approved Breath Discovery Order, Blood Discovery Order, which may be presented to the Judge of the Court at any time, but not later than 30 days prior to trial. Upon the Judge signing the Discovery Orders, a copy shall be immediately provided to the State's attorney by the Defendant along with a Certificate of Service. Motions for the standard Discovery Orders need not be placed on a Motions Docket. If a case requires discovery of items not covered by the Standard Discovery Orders, an attorney may set a motion for Discovery for hearing.

8.3.6 All Code of Criminal Procedure Sec. 28.01 Motions shall be filed and set pursuant to Code of Criminal Procedure Sec. 28.01 unless modified in this Rule 8.

Rule 9

Plea Acceptance/Plea/Trial Determination Date

9.1 Defendants must be personally present in court at all Plea Acceptance/Plea/Trial Determination settings.

9.2 At this setting, usually 45 days after the Pre-Trial Setting, (or a shorter interval in the Court's discretion), the case will be disposed of by plea bargain negotiation, or the case will be set for trial. The case can be plead at any time prior to the Plea setting by agreement of the parties. Once a case is set for trial, the case can still be plead prior to the Call Docket.

Rule 10

Call Docket/Trial Settings

10.1 Defendants must be personally present in court at all Call Docket and Trial Settings.

10.2 After the Call Docket setting, pleas are unlikely to be accepted unless there is some special circumstance to justify the case not being pleaded out earlier.

Rule 11

Bond Forfeiture

11.1 If the client does not appear at all settings as set forth above, or obtain a waiver of arraignment/reset with scheduling order filed with the Court prior to noon the business day immediately prior to the Court setting, his or her bond will be forfeited immediately.

Rule 12

Adoption, Approval and Amendment of These Rules of Administration for Misdemeanor Cases


12.1 These Rules of Administration for Misdemeanor Cases are adopted by the Misdemeanor Trial Judges for all purposes. On January 1, 2023 and upon the signature of majority of Misdemeanor Trial Judges and posting to the Office of Court Administration website, these Rules of Administration for Misdemeanor Cases shall become effective and remain in effect so long thereafter until amended, repealed, or modified.

12.2 These Rules of Administration for Misdemeanor Cases may be amended, repealed, or modified by a vote of one half of the Misdemeanor Trial Judges.

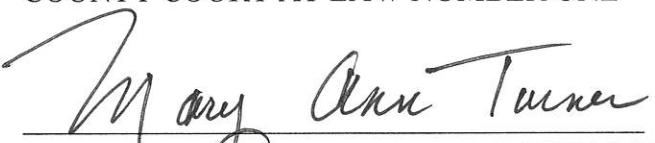
12.3 The County Clerk are directed to upload these Rules of Administration for Misdemeanor Cases on the Office of Court Administration website, and to record these Rules of Administration for Misdemeanor Cases in the Misdemeanor Minutes of all of the County Courts at Law of Montgomery County, Texas, and all additional County Courts at Law thereafter created.

12.4 Each numbered or lettered paragraph of these rules shall be considered to be separate and distinct from all other portions hereof, and if any portion should be declared by a higher court to be improper, such declaration will not affect any other portion not so declared to be improper.


These Montgomery County Rules of Administration for Misdemeanor Cases for the County Courts at Law of Montgomery County, Texas are adopted and approved this the 15th day of December, 2022.



JUDGE DENNIS WATSON, PRESIDING JUDGE
COUNTY COURT AT LAW NUMBER ONE



JUDGE MARY ANN TURNER, PRESIDING JUDGE
COUNTY COURT AT LAW NUMBER FOUR



JUDGE KEITH STEWART, PRESIDING JUDGE
COUNTY COURT AT LAW NUMBER FIVE



JUDGE-ELECT JOHN HAFLEY
COUNTY COURT AT LAW NUMBER ONE



JUDGE-ELECT ECHO HUTSON
COUNTY COURT AT LAW NUMBER FOUR