



YOUR RIGHTS AT TRIAL

You have certain rights once your case is set to go to trial. Prior to entering a plea, you have the option to view all documents in your case, excluding those documents ordered withheld by a Court of proper jurisdiction. You have the right to hire a lawyer to represent you, or you may proceed on your own and represent yourself. The Court (the Judge) will expect you to know the Texas Rules of Evidence, the Texas Rules of Criminal Procedure, the Texas Penal Code, The Traffic Code, and the proper conduct of an attorney in the Courtroom at all times, particularly if you are having a jury trial. Once the trial has begun, either jury or by the Court, the Court cannot assist you in these matters. You should understand that you are opposed in this case by an Assistant City Attorney, who is a prosecutor and conducts criminal trials on a regular basis.

Proceedings in this Court begin with a written complaint. You have a right to examine this complaint before trial. You are entitled to hear all testimony introduced against you. You have the right to cross-examine any and all witnesses who testify against you. On cross-examination, you may only ask questions on the facts and circumstances surrounding the alleged violation. You may not argue with the witness or make any statement at that time, you may only ask questions. You may make a statement if you decide to take the stand and testify. You have the right to testify, and you have the right NOT to testify, that is your choice. If you choose to testify, anything that you say can be used against you. If you choose not to testify, that fact alone will not be used against you in determining whether you are Guilty or Not Guilty of the charge against you.

The Prosecution gets to go first and present its case, since it has the burden of proof. After the Prosecution has completed its case, you may present your case. You have a right to call witnesses to testify on your behalf, and you have a right for the Court to order subpoenas to make sure that witnesses who would be in your favor appear in Court. Such subpoenas should have been requested and issued well in advance of the date of the trial. These requests are typically presented to the Clerk of the Court at the pre-trial hearing. Your witnesses can only testify about matters of which they have personal knowledge. The Prosecution has the right to cross-examine your witnesses, and of course if you testify, the Prosecution has the right to cross-examine you. You must ask your witnesses only direct questions and you may not ask leading questions.

If during the trial, you have an objection to a question asked by the Prosecution, you may rise and object, but you must be able to state a legal ground for your objection.

After both sides have concluded all testimony, including rebuttal testimony by the Prosecution, and after the Prosecution has given its closing argument, you may rise and make a closing argument and tell the Court (or the Jury) why you feel that you should be found Not Guilty of the charge against you. But such statement can be based only on the testimony given under oath from the witness stand. No new facts or information can be

used or raised by you (or by the Prosecution) on closing argument, and if you do raise such information or facts, an objection can be made.

After the verdict, if you are found Not Guilty, you will be free to go, and you will owe nothing. If you are found guilty, you will have five (5) days in which to make a Motion for New Trial (if you wish), or you will have ten (10) days in which to appeal the verdict to the Appeals Court (if you wish), or you will have thirty (30) days in which to pay the full fine and all Court costs (state fees). If you decide to appeal, it will be necessary to post an Appeal Bond of twice the amount of the fine and costs. It is suggested that any appeal be by a licensed attorney.



SPECIAL NOTE ON JURY TRIALS

The jury trial starts with the selection of a jury from the jury panel. The Prosecution has the right to question the members of the jury panel first to determine which individuals the Prosecution feels may be the best persons to serve as jurors. After the Prosecution completes its voir dire (questioning of the jury panel), it is then your turn to question the members of the jury panel to determine which persons you feel may be the best persons to serve as jurors. After the panel has been questioned by both sides, each side will have the opportunity to strike, or mark out, three jurors from the jury list for any legal reason. These strikes are called Peremptory Challenges. Each side will also have the opportunity to strike an unlimited number of persons who are found to have bias or prejudice which would make their service on the jury impossible. These are called Challenges for Cause. The first six persons remaining on the list who have not been struck by either side or by the Court will become the jury. If there are less than six persons remaining, the parties can agree to try the case to a jury of less than six persons, but if either side objects to proceeding with less than six jury members, the jury panel is “busted” and a new jury panel must be called up.



SUMMARY OF TRIAL PROCEDURE

1. Selection of the Jury
2. Jury Sworn In
3. Prosecution and Defense Announce Ready
4. Complaint is read by Prosecution to Defendant
5. Defendant formally enters plea of Not Guilty

6. All witnesses are sworn in, Rule may be invoked
7. Prosecution offers testimony
8. Cross-examination by Defense
9. Rebuttal testimony by Prosecution
10. Defense offers testimony
11. Cross-examination by Prosecution
12. Rebuttal testimony by Defense
13. Motions
14. Final Argument by Prosecution
15. Final Argument by Defense
16. Final Rebuttal by Prosecution
17. Verdict
18. Motion, Appeal, or Discharge

Municipal Court Procedures: Adults

Prepared and Distributed by the Texas Municipal Courts Education Center
TMCEC is funded by a grant from the Texas Court of Criminal Appeals

City: VIDOR

Address: 1330 FIRST STREET, VIDOR, TX 77662

Telephone: (409) 769-7452 Fax: (409) 769-5712

Purpose

This pamphlet is designed to provide information about criminal court proceedings. It is not a substitute for legal advice from a licensed attorney. If you have questions about your best course of action, what plea you should enter, your rights, or the consequence of a conviction of the offense for which you are charged, you should contact an attorney. Neither the clerk, judge, nor prosecutor can give you legal advice.

Your Rights

Under our American system of justice, all persons are presumed to be innocent until proven guilty. The State must prove you guilty “beyond a reasonable doubt” of the offense with which you are charged. Every criminal defendant has the right to remain silent and refuse to testify (without consequences). You have the right to retain an attorney and have them try your case or answer your questions. Since offenses in this court are punishable only by fine and not by incarceration, you do not have the right to appointed counsel.

You have the right to a jury trial. You may waive a jury trial and have a trial before the judge, commonly called a “bench trial.” If you elect to represent yourself, no person other than an attorney can assist you during a trial.

At trial you have many rights including:

- 1) The right to have notice of the complaint not later than the day before any proceedings in the prosecution;
- 2) The right to inspect the complaint before trial, and have it read to you at the trial;
- 3) The right to hear all testimony introduced against you;
- 4) The right to cross-examine witnesses who testify against you;
- 5) The right to testify on your own behalf;
- 6) The right not to testify (Your refusal to do so may not be held against you in determining your innocence or guilt.); and
- 7) You may call witnesses to testify on your behalf at the trial, and have the court issue a subpoena (a court order) to any witnesses to ensure their appearance at the trial.

Appearance

In addition to your rights, you have some legal responsibilities. The law requires you to make an appearance in your case. Your appearance date is noted on your citation, bond, summons, or release papers. You or your attorney may appear in person in open court, by mail, or you may deliver your plea in person to the court. (Juveniles have a separate set of rules for their appearance. Please read the *Children* pamphlet).

Your first appearance is to determine your plea. If you waive a jury trial and plead guilty or nolo contendere (no contest), you may present extenuating circumstances for the judge to consider when determining the proper punishment. However, the judge is not required to reduce your fine. If you plead not guilty, the court will schedule a jury trial. You may waive a jury trial and request a bench trial. When you make your appearance by mail, your plea must be postmarked by your scheduled appearance date. If you plead not guilty, the court will notify you of the date of your trial.

If you enter a plea of guilty or no contest, you must also waive your right to a jury trial. You may request the amount of fine and appeal bond in writing and mail or deliver it to the court before your appearance date. You then have up to 31 days from the time you received a notice from the court to pay the fine or file an appeal bond with the municipal court.

Pleas

Unless you are entitled to a compliance dismissal, you must enter one of the following three pleas:

Plea of Not Guilty – A plea of not guilty means that you deny guilt and require the State to prove the charge. A plea of not guilty does not waive any of your rights. A plea of not guilty does not prevent a plea of guilty or no contest at a later time.

Plea of Guilty – By a plea of guilty, you admit that you committed the criminal offense charged.

Plea of Nolo Contendere (no contest) – A plea of nolo contendere means that you do not contest the State’s charge against you.

The difference between a plea of guilty and nolo contendere is that the no contest plea may not later be used against you in a civil suit for damages. For example, in a civil suit arising from a traffic crash, a guilty plea can be used as evidence of your responsibility or fault.

If you plead guilty or nolo contendere, you will be found guilty and should be prepared to pay the fine. A plea of guilty or nolo contendere waives all of the trial rights discussed earlier. If you are unable to pay the entire fine and costs, you should be prepared to document and explain your financial situation.

Fines, Costs, and Fees

The amount of the fine assessed by the court is determined by the facts and circumstances of the case. Mitigating circumstances may lower the fine, and aggravating circumstances may increase the fine. The maximum fine amount allowed for most traffic violations is \$200; for most other violations of State law and city ordinances—\$500; for fire safety, health, zoning, and sanitation ordinance violations—\$2,000.

Courts are required by the laws of the State of Texas to collect court costs and fees. Because costs vary for different offenses, check with the court for the amount of costs that will be assessed for the violation with which you are charged. If you go to trial, you may have to pay the costs of overtime paid to a peace officer spent testifying at trial. If you request a jury trial and are convicted, a \$3 jury fee is assessed. If a warrant was served or processed, a \$50 warrant fee is also assessed. If you do not pay the whole fine and costs within 30 days of the court's judgment, you must pay an additional \$25 time payment fee.

Court costs are only assessed if you are found guilty at trial, if you plead guilty or nolo contendere, or if you are granted deferred disposition or a driving safety course. If you are found not guilty or the case is dismissed, court costs are not assessed.

Judge's Ability to Dismiss

The municipal judge is responsible for conducting a fair, impartial, and public trial. The case against you is brought by the State of Texas through the prosecutor, not the court. Therefore, the judge may not dismiss a case without the prosecutor having the right to try the case.

There are several exceptions to this rule, including deferred disposition, driving safety courses, and compliance dismissals.

Trial Procedures

If you need a continuance, you must put the request in writing with your reason for your request and submit it to the court prior to trial. You may request a continuance for the following reasons:

- 1) A religious holy day where the tenets of your religious organization prohibit members from participating in secular activities such as court proceedings (you must file an affidavit with the court stating this information);
- 2) You feel it is necessary for justice in your case; or
- 3) By agreement of the parties (you and the prosecutor).

The judge decides whether or not to grant the continuance. Failure to submit the request in writing may cause your request to be denied.

If you choose to have the case tried before a jury, you have the right to question jurors about their qualifications to hear your case. If you think that a juror will not be fair, impartial, or unbiased, you may ask the judge to excuse the juror. You are also permitted to strike three members of the jury panel for any reason you choose, except a strike based solely upon race or gender.

As in all criminal trials, the trial begins with each party given an opportunity to make an opening argument. Then the State presents its case first by calling witnesses to testify against you.

You then have the right to cross-examine the State's witnesses. You may not, however, argue with the witnesses. Cross-examination must be in the form of questions.

After the prosecution has rested, you may present your case. You have the right to call witnesses who know anything about the incident. The State has the right to cross-examine the witnesses that you call.

If you so desire, you may testify on your own behalf, but as a defendant, you may not be compelled to testify. It is your choice, and your silence cannot be used against you. If you do testify, the State has the right to cross-examine you.

After all testimony is concluded, both sides can make a closing argument. This is your opportunity to summarize the evidence, present your theory of the case, argue why the State has failed to meet its burden of proof, and make other arguments allowed by law. The State has the right to present the first and last arguments.

In determining the defendant's guilt or innocence, the judge or jury may consider only the testimony of witnesses and evidence admitted during the trial. The judge or jury must find the defendant guilty "beyond a reasonable doubt."

You may elect the jury to assess the fine if you are convicted. If you do not file an election before the trial begins, the judge will assess the fine. You should be prepared to pay the fine and costs or post an appeal bond if you are convicted.

Driving Safety Course

If you are charged with a traffic offense, you may be eligible to ask the judge to take a driving safety course to dismiss the charge. The request must be made on or before the appearance date on the citation. It must be made in person, by counsel, or by certified mail. (If you are under age 17, you must appear in open court with a parent or guardian to make the request.) If you were operating a motorcycle, you may be required to take a motorcycle operator's training course. If you are charged with allowing a child to ride unsecured in a safety belt or a child passenger safety seat system, you must take a special driving safety course that has four hours training on child passenger safety seat systems. At the time of the request, you must do the following:

- 1) Plead guilty or no contest;
- 2) Pay court costs;
- 3) Pay a \$10 administrative fee, if required;
- 4) Present proof of financial responsibility (insurance); and
- 5) Present a valid Texas driver's license or permit. (Active military and spouses or dependent children of active military may present a valid driver's license from any state.)

To be eligible, you:

- 1) Cannot have taken a driving safety course or motorcycle operator's course for a traffic offense within the last 12 months from the date of the current offense;
- 2) Cannot currently be taking the course for another traffic violation;
- 3) Cannot be the holder of a commercial driver's license (CDL) or have held a CDL at the time of the offense; and
- 4) Have not committed one of the following offenses:

Failure to Give Information at Accident Scene;

Leaving Scene of Accident;

Passing a School Bus;

A serious traffic violation, which applies to commercial motor vehicle operators;
An offense in a construction or maintenance work zone when workers are present;
Speeding 25 mph or more over limit; or
Speeding 95 mph or more.
The case will be deferred for 90 days.
During that time you must:

- 1) Complete a driving safety course approved by the Texas Education Agency or a motorcycle operator's course approved by the Department of Public Safety and present the completion certificate to the court;
- 2) Present a certified copy of your driving record from the Department of Public Safety that shows that you have not had a driving safety course within the preceding 12 months from the date of the current offense; and
- 3) Swear to an affidavit that you were not taking a driving safety course at the time of the request for the current offense and that you have not taken one that is not shown on your driving record.

If you do not present the required documents in time, the court will notify you to return to court and explain why you failed. The judge may, but is not required to, allow you to file the proper papers for an extension at that time. Your failure to be present at that hearing will result in a conviction, a fine being assessed, and a *capias pro fine* for your arrest being issued.

Deferred Disposition

The judge may, in the judge's sole discretion, defer disposition on most cases. The holder of a commercial driver's license (CDL) is not eligible for deferred disposition on moving traffic violations. Costs must generally be paid when the court grants deferred. If you complete the required terms, the case is dismissed, and the court may impose a special expense fee not to exceed the maximum fine amount authorized by state law. The deferred period cannot exceed 180 days.

New Trial and Appeal

If you are found guilty, you may make an oral or written motion to the court for a new trial. The motion must be made within 5 days after the court's rendering a judgment of guilt. The judge may grant a new trial if persuaded that justice has not been done in your case. Only one new trial may be granted. Defendants in courts of record should check with the court for rules regarding new trials.

If you are found guilty, you have the right to appeal your case. To appeal you must file an appeal bond with the municipal court within 10 days of the judgment. The court must set the appeal bond amount for at least twice the amount of the fine and costs. For an appearance by mail, look at the section *Appearance* for the special rules for appealing pleas made by mail. Defendants in courts of record should check with the court for rules regarding appeals.

Municipal Court Procedures: Children Ages 10-16

Prepared and Distributed by the Texas Municipal Courts Education Center

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Purpose

This pamphlet is designed to provide information about criminal court proceedings involving children. It is not a substitute for legal advice from a licensed attorney. If you have questions about your best course of action, what plea you should enter, your rights, or the consequence of a conviction of the offense for which you are charged, you should contact an attorney. Neither the clerk, judge, nor prosecutor can give you legal advice.

Your Rights

Under our American system of justice, all persons are presumed to be innocent until proven guilty. The State must prove you guilty "beyond a reasonable doubt" of the offense with which you are charged. Every criminal defendant has the right to remain silent and refuse to testify (without consequences). You have the right to retain an attorney and have them try your case or answer your questions. Since offenses in this court are punishable only by fine and not by incarceration, you do not have the right to appointed counsel. Although your parents or guardians must appear with you, they may not act as your counsel (or attorney) unless they are, in fact, a licensed attorney.

You have the right to a jury trial. You may waive a jury trial and have a trial before the judge, commonly called a "bench trial." At trial you have many rights including:

- 1) The right to have notice of the complaint not later than the day before any proceedings in the prosecution;
- 2) The right to inspect the complaint before trial, and have it read to you at the trial;
- 3) The right to hear all testimony introduced against you;
- 4) The right to cross-examine witnesses who testify against you;
- 5) The right to testify on your own behalf;
- 6) The right not to testify (Your refusal to do so may not be held against you in determining your innocence or guilt.); and

7) You may call witnesses to testify on your behalf at the trial, and have the court issue a subpoena (a court order) to any witnesses to ensure their appearance at the trial.

Appearance

In addition to your rights, you have some legal responsibilities. The law requires you to make an appearance in your case. Your appearance date is noted on your citation, bond, summons, or release papers.

You and a parent or guardian **must appear** in person in **open court**. You are not allowed to appear by mail or by delivery of a plea or fine to the clerk's office. You have an absolute right to be accompanied by your retained attorney. Your parent or guardian, however, must still appear with you even if your attorney accompanies you to court.

Your first appearance is to determine your plea. If you waive a jury trial and plead guilty or nolo contendere (no contest), you may present extenuating circumstances for the judge to consider when determining the proper punishment. However, the judge is not required to reduce your fine. If you plead not guilty, the court will schedule a jury trial. You may waive a jury trial and request a bench trial.

If you enter a plea of guilty or no contest, you must also waive your right to a jury trial. Be prepared to pay the fine or file an appeal bond with the court.

Pleas

Unless you are entitled to a compliance dismissal, you must enter one of the following three pleas. The plea must be made by the defendant charged with the offense. Parents or guardians, while they must be present, may not enter a plea on a child's behalf.

Plea of Not Guilty – A plea of not guilty means that you deny guilt and require the State to prove the charge. A plea of not guilty does not waive any of your rights. A plea of not guilty does not prevent a plea of guilty or no contest at a later time.

Plea of Guilty – By a plea of guilty, you admit that you committed the criminal offense charged.

Plea of Nolo Contendere (no contest) – A plea of nolo contendere means that you do not contest the State's charge against you.

The difference between a plea of guilty and nolo contendere is that the no contest plea may not later be used against you in a civil suit for damages. For example, in a civil suit arising from a traffic accident, a guilty plea can be used as evidence of your responsibility or fault.

If you plead guilty or nolo contendere, you will be found guilty and should be prepared to pay the fine. A plea of guilty or nolo contendere waives all of the trial rights discussed earlier. If you are unable to pay the fine and costs, you should be prepared to document and explain your financial situation.

Fines, Costs, and Fees

The amount of the fine assessed by the court is determined by the facts and circumstances of the case. Mitigating circumstances may lower the fine, and aggravating circumstances may increase the fine. The maximum fine amount allowed for most traffic violations is \$200; for most other violations of State law and city ordinances—\$500; for fire safety, health, zoning, and sanitation violations—\$2,000.

Courts are required by the laws of the State of Texas to collect court costs and fees. Because costs vary for different offenses, check with the court for the amount of costs that will be assessed for the violation with which you are charged. If you go to trial, you may have to pay the costs of overtime paid to a peace officer spent testifying at trial. If you request a jury trial and are convicted, a \$3 jury fee is assessed. If a summons was served on your parents, a \$35 fee is also assessed. If you do not pay the whole fine and costs within 30 days of the court's judgment, you must pay an additional \$25 time payment fee.

Court costs are only assessed if you are found guilty at trial, if you plead guilty or nolo contendere, or if you are granted deferred disposition, teen court, or a driving safety course. If you are found not guilty or the case is dismissed, court costs are not assessed.

Deferred Disposition

The judge may, in the judge's sole discretion, defer disposition on most cases. Costs must generally be paid when the court grants deferred. The court may also impose educational terms, different types of treatment, or other terms. If you complete the required terms, the case is dismissed, and the court may impose a special expense fee not to exceed the maximum fine amount authorized by state law. The deferred period cannot exceed 180 days.

Discharge by Community Service

If you are unable to pay your fine and costs, you may be eligible to discharge your obligation by performing community service. This must be granted by the court. You will receive \$50 credit for each eight (8) hours worked. Please let the judge know if you are unable to pay the fine and costs.

Judge's Ability to Dismiss

The municipal judge is responsible for conducting a fair, impartial, and public trial. The case against you is brought by the State of Texas through the prosecutor, not the court. Therefore, the judge may not dismiss a case without the prosecutor having the right to try the case.

There are several exceptions to this rule, including deferred disposition, driving safety courses, and compliance dismissals.

Trial Procedures

If you need a continuance, you must put the request in writing with your reason for your request and submit it to the court prior to trial. You may request a continuance for the following reasons:

- 4) A religious holy day where the tenets of your religious organization prohibit members from participating in secular activities such as court proceedings (you must file an affidavit with the court stating this information);
- 5) You feel it is necessary for justice in your case; or
- 6) By agreement of the parties (you and the prosecutor).

The judge decides whether or not to grant the continuance. Failure to submit the request in writing may cause your request to be denied.

If you have a jury trial or bench trial scheduled, the case proceeds the same as if you were an adult. See the *Adults* pamphlet for information on trial procedures.

Continuing Obligation to Appear

You and your parents or guardians have a duty to continue appearing in court even after you reach age 17. If you fail to appear before reaching age 17, you can be arrested and brought before the court. If you fail to appear after your 17th birthday and after notification by this court, you can be charged with an additional offense of *violation of obligation to appear* and be arrested in the same manner as any other adult.

Obligation to Notify Court of Address Change

You and your parents or guardians have an obligation to inform the court in writing each time you change your address. You must notify the court within seven (7) days of each change of address. This obligation continues until your case is fully resolved and all fines and costs are paid or discharged. This obligation does not end when you turn age 17. Failure to make a proper notification may cause you and your parents or guardians to be charged with an additional criminal violation and to be arrested.

Mandatory Alcohol and Tobacco Courses and Community Service

If you are found guilty of, or placed on deferred disposition for, an alcohol offense, the court must order you to complete an alcohol awareness course. The court must also order you to complete a period of community service.

If you are found guilty of, or placed on deferred for, a tobacco offense, the court must order you to complete a tobacco awareness course.

Contempt

If you fail to pay your fine and costs, or violate other orders in the court's judgment, the court must provide an opportunity for you to explain your conduct. The court at this time may:

- 1) Determine that you are not in contempt;
- 2) Refer your case to the county juvenile court as delinquent conduct; or
- 3) Retain jurisdiction and find you in contempt and assess a fine up to \$500 and/or order the Texas Department of Public Safety to suspend or deny issuance of a driver's license, until you comply with the court's order.

Failure to Pay a Fine and Turning Age 17

Even when you turn age 17, you are still obligated to discharge your responsibility to the court by paying your fine. If you do not, at age 17, the court may issue a *capias pro fine* for your arrest. You may then be committed to jail until you have earned enough jail credit to satisfy the fine(s) and costs owed.

Driver's License Suspension

You may be denied issuance of a driver's license or if you have a driver's license, your privilege to drive may be suspended until you comply with the order(s) of this court. The following is a list of acts that can cause you to be denied or to lose your license:

- 1) Failing to appear in court;
- 2) Failing to pay or discharge your fine and costs;
- 3) Failing to take and present proof of taking an alcohol or tobacco awareness course; and
- 4) Violating a court order in the court's judgment.

Some offenses, such as the Alcoholic Beverage Code offenses, require courts upon conviction to order the Department of Public Safety to deny issuance of or to suspend a defendant's driver's license for a period of time.

Expunction Rights

The records of this court, including all records in your case, are public and accessible to the public. However, if you are convicted of an offense in this court, the records in your case will be subject to an order of nondisclosure prohibiting release of the records to anyone except you or other criminal or specified noncriminal justice agencies.

You may be entitled to an expunction of the records of a conviction in your case.

For a single alcohol conviction, you may petition this court for an expunction after your 21st birthday.

For tobacco convictions, you may petition this court for expunction after your 18th birthday.

For a single conviction for *failure to attend school* violation, you may petition this court for an expunction after your 18th birthday.

For a single conviction of any other non-traffic violation, you may petition this court for expunction after your 17th birthday.

Ask the court for proper forms for the application for expunction. The cost of an expunction is a minimum of \$30. If you have questions concerning the right to, need for, or consequences of expunction, please consult with a licensed attorney.

New Trial and Appeal

If you are found guilty, you may make an oral or written motion to the court for a new trial. The motion must be made within 5 days after the court's rendering a judgment of guilt. The judge may grant a new trial if persuaded that justice has not been done in your case. Only one new trial may be granted. Defendants in courts of record should check with the court for rules regarding new trials.

If you are found guilty, you have the right to appeal your case. To appeal you must file an appeal bond with the municipal court within 10 days of the judgment. The court must set the appeal bond amount for at least twice the amount of the fine and costs. Defendants in courts of record should check with the court for rules regarding appeals.