Municipal Court Procedures for Adults

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. You must contact the court within two to ten days of receiving your citation to get your appearance date. You or your attorney may appear in person in open court, by mail, or you may deliver your plea in person to the court.

Your first appearance is to determine your plea. If you decide to waive a jury trial and plead guilty or nolo contendere (no contest), you may be able to handle your citation without appearing in court. 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 it is $500; and for fire safety, health, zoning, and sanitation ordinance violations it is $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.

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.

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 one day 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.

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.

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.

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;
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.

Compliance Dismissals

You may be eligible for a compliance dismissal in the Court office for the following offenses:

- Fail to Display Driver's License
- Fail to Maintain Financial Responsibility
- Expired Motor Vehicle Inspection (Less than 60 days expired)
- Expired Registration (Less than 60 days expired)
- Handicapped Placard Violations
- Expired Driver's License (Less than 60 days expired)
- Fail to Change Address on Driver's License