

# COURT PROCEDURES

*The following has been provided for general information only. This does not constitute legal advice. If you have questions concerning your legal rights or obligations you should consult an attorney.*

## Court Appearances

The law requires you to appear in court on your case.

**Please note: A phone call is NOT an appearance!**

- If you were issued a citation, you have ten days from the date of the citation to contact the court. Please be aware that the court will not have your citation immediately after you receive it, as there are data entry delays.
- If you have been released on bond, your appearance date is set on the bond.
- If you request a continuance, the court will notify you of your new appearance date (see the section "Continuances" below). You or your attorney may appear in person in open court.

**\*\* Juveniles have a separate set of rules for their appearance. See the section "Juveniles" below. \*\***

Unless otherwise requested, your first appearance is to determine your plea (Plea Docket).

If you waive a jury trial and plead guilty or nolo contendere (no contest), you may talk to the judge about extenuating circumstances that you want the judge to consider when setting your fine, but the judge is not required to reduce your fine. Before pleading guilty or no contest you will want to read the section "Pleas". If you plead not guilty, the court will schedule a jury trial unless you waive that right. If you do, the trial will be before the judge. When you make your appearance by mail, the court must receive your plea before your scheduled appearance date. If you plead guilty or no contest, you must include a waiver of jury trial. If you plead not guilty, the court will notify you of the date of your trial. The prosecutor is usually in attendance at the Plea Docket (see "Role of the Prosecutor" below).

## Pleas

Under our American system of justice, all persons are presumed to be innocent until proven guilty. On a plea of not guilty, a trial is held. As in all criminal trials, the State must prove the guilt of a defendant "beyond a reasonable doubt" of the offense charged in the complaint before the defendant can be found guilty by a judge or jury.

Your decision concerning which plea to enter is very important. You should read the following explanation of all three types of pleas and think carefully before making your decision. If you plead guilty or nolo contendere, you should be prepared to pay the fine. You should contact the court regarding how to make payment.

**Plea of Guilty** – By a plea of guilty, you admit that the act is prohibited by law and that you committed the act charged. Before entering your plea of guilty, however, you should understand the following:

1. In a trial, the State has the burden of proving that you violated the law. *The law does not require that you prove that you did not violate the law.*
2. You have the right to a trial to hear the State’s evidence and to require the State to prove you violated the law; and
3. A plea of guilty may be used against you later in a civil suit if there was a traffic accident because *another party can say you were at fault or responsible for the accident because you plead guilty to the traffic charge.*

**Plea of Nolo Contendere (No Contest)** – A plea of nolo contendere means that you do not contest the State’s charge against you. You will almost certainly be found guilty, unless you are eligible and successfully complete a driving safety course and/or court ordered probation. Also a plea of nolo contendere may not be used against you in a subsequent civil suit for damages.

***A plea of Nolo Contendere or Guilty on a traffic violation will result in points being deducted from your driving record in accordance with the Texas Department of Public Safety’s Driver Responsibility Program.***

**Plea of Not Guilty** – A plea of not guilty means you deny guilt, and that the State must prove the charge that it filed against you. If you plead not guilty, you need to decide whether to hire an attorney to represent you (see section “The Trial” below).

## The Trial

A trial in municipal court is a fair, impartial and public trial as in any other court. It will be conducted in accordance with the same rules of procedure and evidence as in any other court. Under Texas law, you may be brought to trial only after a sworn complaint is filed against you. A complaint is a document that alleges the act you are supposed to have committed and that the act is unlawful. You may be tried only for what is alleged in the complaint. You have the following rights in court:

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

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. The judge will decide whether or not to grant your request. In each jury trial, you are also permitted to strike three members of the jury panel for any reason you choose, except an illegal reason (such as a strike based solely upon a person's race or gender).

If you choose a trial by jury, you will be required to appear at a pre-trial hearing. The pre-trial hearing is your opportunity to show the judge any exhibits, such as documents, you may want to enter into evidence at trial and determine if the item is admissible. The judge will also take the opportunity to explain jury trial procedures in greater detail.

## Judgment / Verdict

If the case is tried by the judge, the judge's decision is called a judgment. If the case is tried by a jury, the jury's decision is called a verdict.

In determining the defendant's guilt or innocence, the judge or jury may consider only the testimony of witnesses and any evidence admitted during the trial.

If you are found guilty by either the judge or Jury, the penalty will be announced at that time. Unless you plan to appeal your case, you should be prepared to pay the fine at this time.

## Juveniles

The municipal court has jurisdiction over juveniles (persons under the age of 17) charged with most Class C misdemeanor offenses.

All juveniles are required to appear in open court for all proceedings in their cases. The parent or guardian of a juvenile charged in municipal court must be present in court with their child. Juveniles who fail to appear in court may have an additional charge of failure to appear filed against them. Juveniles who fail to appear or who fail to pay their fine will be reported to the Department of Public Safety who will suspend or deny issuance of a driver's license.

## Fines

The fine amount printed on the back of the citation or that you are given over the phone is the court's suggested fine, including court costs, for defendants who do not wish to appear in court.

The amount of fine assessed at trial, or after pleading guilty or nolo contendere and speaking to the judge, is determined only by the facts and circumstances of the case. Mitigating circumstances may lower the fine, even if you are guilty. On the other hand, aggravating circumstances may increase the fine.

**All fines and fees are subject to change without notice.**

## Fees and Court Costs

In addition to a fine, court costs mandated by state law will be charged. The costs are different depending on the offense. You need to check with the court for the amount that will be assessed to the violation for which you are charged. If you request a trial, you may have to also pay the costs of overtime paid to a peace officer spent testifying in the trial. If you request a jury trial, an additional jury fee is assessed. If a warrant was served or processed by a peace officer, an additional \$50 fee is also assessed.

Court costs are assessed if you are found guilty at trial, if you plead guilty or nolo contendere, if your case is deferred for a driving safety course, or if your case is deferred and you are placed on probation. If you are found not guilty, court costs cannot be assessed.

## Driving Safety Courses

If you are charged with a traffic offense, you may be eligible to take a driving safety course (DSC) to dismiss the charge. To be eligible for this option, you must meet the following conditions:

1. Have a valid Texas driver's license, or if part of an active military family have a valid driver's license from another state.
2. Are NOT currently holding a commercial driver's license (CDL). **CDL holders are not eligible to take a driving safety course to dismiss a traffic offense.**
3. Have current liability insurance coverage
4. Have NOT requested and/or have taken a driving safety course or motorcycle operator course for a traffic offense within the last 12 months of the infraction date for any other court.
5. Are NOT currently taking the course for another traffic violation, in any other court.
6. Have not been issued a citation for one of the following offenses:
  - a. Speeding 25 MPH or more over the posted speed limit
  - b. Any traffic citation in a work/construction zone with workers present
  - c. Passing a school bus

You cannot sign up for DSC until the Court has received the original ticket from the officer. You will complete an affidavit and be given instructions for completing the course. The administrative fee is \$114. If the charge was Speeding in a School Zone, then the administrative fee will be \$134.

At the time of the request, you must present a valid driver's license, proof of financial responsibility (liability insurance), and a plea of guilty or no contest.

Information regarding the driving safety course and a form to request the course may also be found on the back of your copy of the citation.

**If you were operating a motorcycle**, you must take a motorcycle operator's training course.

**If you were the driver charged with not wearing a safety belt or transporting a child not in a safety belt or child passenger safety seat system**, you must take a driving safety course that has four hours of instruction about seat belts and child passenger safety seat systems

Once approved, the case will be postponed for 90 days to allow you time to complete the course. You must attend a driving safety course that has been approved by the Texas Education Agency or a motorcycle operator's course approved by the Department of Public Safety.

If you do not take the course in the time required and/or fail to present the court with a certificate of completion, the court will notify you to return to court and show cause as to why you failed to show proof of completion. If you have a good reason why you were unable to present your proof within the time required, the judge may, but is not required to, grant you an extension. Your failure to be present at that hearing will result in a warrant for your arrest being issued. An additional charge may also be filed.

## Role of the Judge

The judge ensures that all persons before the court are treated fairly and equally. The judge insures that the orders of the court are followed. The judge presides over all trials and hearings on other matters. The judge sets the terms and conditions of deferred dispositions and other sentences.

## Role of the Clerks

The clerks are the administrators of the court. They carry out the orders of the judge and the procedures and policies mandated by the state or other authority. **The clerks do not decide policies, procedures, laws or fines, so do not address your concerns to them if you do not like or feel inconvenienced by one of the above.** They may not change the court's orders or make exceptions to the court's rules for any individual. They may not give you legal advice or interpret the law for you. They may not tell you what they think the judge or the prosecutor will do in your case. They can answer factual questions regarding the information they have.

## Role of the Prosecutor

The prosecutor is the attorney for the City and the State. The prosecutor is not your attorney. You have the right **NOT** to speak to the prosecutor. If you choose to speak to the prosecutor be aware that any statement you make may be used against you should you choose to proceed to trial.