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Cruelly Treated Animals

HSC Chapter 821
Subchapter B



Writ of Re-Entry Flowchart

Applicant files sworn written application in precinct where property is located, pays the civil filing fee or files Statement of Inability (or judge defers payment of costs), and orally states the facts of the case under oath to the judge.
Prop Code 92.009(b)

If judge finds that an unlawful lockout has occurred, ex parte writ of re-entry for immediate and temporary possession shall be issued.
Prop Code 92.009(c)

Writ must be served on landlord/mgmt co. in same manner as writ of possession. Unless the judge has deferred costs or Statement of Inability was filed, service fee must be paid (same as service of writ of possession).
Prop Code 92.009(d)

Hearing must be held at least 1 and no more than 7 days after request.
Prop Code 92.009(e)

Does landlord request a hearing before the 8th day after service?

Yes

No

A judgment for court costs may be entered against the landlord.
Prop Code 92.009(f)

Writ remains in place. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Was the writ properly issued?

Yes

No

Court dissolves the writ. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Has the landlord complied with the writ?

Yes

Close case.

No

Has a writ of possession issued or was there an appeal under Sec. 92.009(g)?

No

Court issues a show cause notice upon filing of an affidavit. Service fee in amount of citation service fee assessed unless deferred or Statement of Inability filed.
Prop Code 92.009(i)

Did landlord disobey writ?

No

Yes

Landlord may be committed to jail without bail until the order is obeyed.
Prop Code 92.009(i)

Yes

Is landlord still disobeying writ?

No

The writ of re-entry may not be enforced.
Prop Code 92.009(g), (h)

May hold in contempt under Gov't Code 21.002 (up to 3 days in jail and/or up to \$100 fine).
Prop Code 92.009(i)

Dangerous Dogs Administrative Hearing Type 1
Procedure When a Dog Causes Death or Serious Bodily Injury to a Person
 Health and Safety Code: Sections 822.001, .002, .003

Any person (including a county attorney, city attorney, or peace officer) may file a sworn complaint directly with the justice court alleging that a dog has caused serious bodily injury or death by attacking, biting, or mauling a person. *(Conservative approach is to not charge a civil filing fee, but law is unclear. So up to court – but be consistent.)*

Does the court find that the complaint establishes probable cause that the dog caused the DEATH of a person?

Yes

Court shall issue a warrant ordering animal control authority to seize the dog.
 Animal control authority shall seize dog or order its seizure and provide for impoundment in secure and humane conditions until the court orders disposition of the dog.

Court must hold hearing no later than **10th day** after warrant is issued and must allow any interested party to present evidence. Although the case must be called and a hearing must be conducted within ten days, the court has discretion to postpone the hearing once called and may issue its ruling after the ten-day period.

Court finds that dog DID cause **serious bodily injury** to a person.

The court **MAY** order dog destroyed (unless exceptions apply – see Exceptions box), or **MAY** order dog released.

An order to destroy the dog is automatically **STAYED** for 10 days from the date of the order and the owner may appeal by filing a notice of appeal within that time. The dog **MAY NOT** be destroyed pending appeal.

Court finds that dog DID cause DEATH of a person.

Court **MUST** order dog destroyed.

Court finds that dog did NOT cause death or serious bodily injury of a person

Court **MUST** order dog released to owner, person from whom dog was seized, or any other person authorized to take possession.

No

Does the court find that the complaint establishes probable cause that the dog caused **serious bodily injury** to a person?
(An injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization, whether or not the person actually sought medical treatment.)

No

Dismiss the case

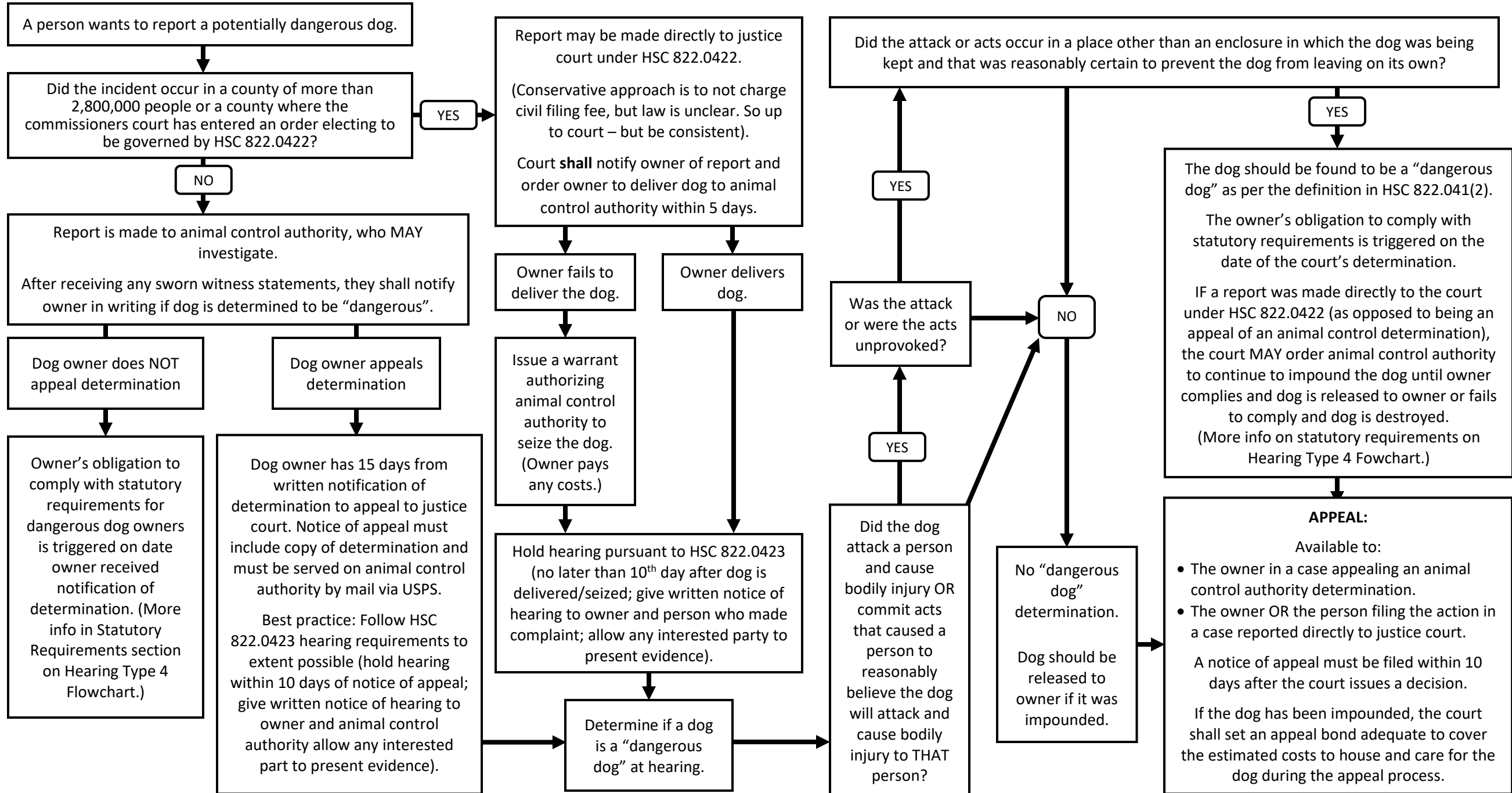
Exceptions (these do not apply if a dog causes a death; only if the dog causes serious bodily injury)
 Even if the court finds that a dog DID cause **serious bodily injury**, the court **MAY NOT** order the dog destroyed if any of the exceptions under HSC 822.033(f) apply:

- 1) Dog was being used for protection of a person/their property; attack/bite/mauling occurred in dog's enclosure which was reasonably certain to prevent escape and warned of presence of dog; and injured person was at least 8 years old and was trespassing in enclosure
- 2) Dog was NOT being used for protection; attack occurred in dog's enclosure; and injured person was at least 8 years old and was trespassing in enclosure.
- 3) Attack/bite/mauling occurred during an arrest/ other action of a peace officer while using dog for law enforcement.
- 4) Dog was defending a person from an assault, property damage, or theft being committed by the injured person.
- 5) Injured person was under 8 years old, attack occurred in dog's enclosure; and enclosure was reasonably certain to keep a person under 8 years old from entering.

Dangerous Dogs Administrative Hearing Types 2 and 3

Determination of Whether a Dog is a “Dangerous Dog” After an Appeal of an Animal Control Authority Determination OR a Direct Report to a Justice Court

Health and Safety Code: Sections 822.041, .0421, .0423, .0424



Dangerous Dogs Administrative Hearing Type 4
Procedure When an Owner of a Dangerous Dog Fails to Follow the Statutory Requirements for a Dangerous Dog Owner
Health and Safety Code: Sections 822.042, .0423, .0424

A dog owner "learns" that they are the owner of a "dangerous dog" because:
1) The owner knows of an attack that meets the definition of "dangerous dog" under HSC 822.041(2);
2) The owner receives notice that a justice, county, or municipal court has found the dog to be dangerous; or
3) The owner is informed by the animal control authority that the dog has been determined to be dangerous.

The owner has 30 days to either comply with the requirements for dangerous dog owners under HSC 822.042(a) or deliver the dog to the animal control authority.
Requirements:
1) Register with the animal control authority;
2) Restrain at all times on a leash in immediate control of a person or in a secure enclosure;
3) Provide proof to animal control authority of insurance or financial responsibility (at least \$100k) to cover damages resulting from an attack; &
4) Comply with any applicable municipal or county regulation, requirement, or restriction on dangerous dogs.

An Application is Filed with the Court:
Any person may submit an application to the justice court stating that the owner has failed to comply with the requirements. (Conservative approach is to not charge civil filing fee, but law is unclear. So up to court - but be consistent). TJCTC recommends holding hearing within 10 days of when application was filed.

Court is Monitoring Owner for Compliance:
Court may already be monitoring if case was filed with court under HSC 822.0422, dog was delivered or seized, the court found the dog to be dangerous, and then ordered the dog to remain impounded until owner complied with these requirements. (See Flowchart on Hearing Types 2 and 3). TJCTC recommends holding hearing within 10 days of 30-day deadline to comply if owner has not presented evidence of compliance to court.

Court must hold a hearing under HSC 822.0423 to determine whether the owner failed to comply and must allow any interested party to present evidence.
Written notice of hearing must be given to owner and complainant.

Court finds owner **FAILED TO COMPLY.**

Court finds owner **DID COMPLY.**

If dog not already impounded, court SHALL order animal control authority to seize the dog and SHALL issue a warrant authorizing seizure.
Animal control authority shall seize the dog or order its seizure and shall provide for impoundment in secure and humane conditions until court orders disposition of the dog. (Owner pays any fees and costs).

Order dog released if impounded.

If owner **NOT LOCATED** before the 15th day after seizure, court **MAY** order **DESTRUCTION** of dog.

If owner **DOES NOT** comply before 11th day after dog was seized (or before 11th day after hearing if dog was already impounded), the court **SHALL** order **DESTRUCTION** of dog (owner pays any costs and fees of destruction).

If owner **COMPLIES** before 11th day after dog was seized (or before 11th day after hearing if dog was already impounded), court **SHALL** order dog **RELEASED** to owner.

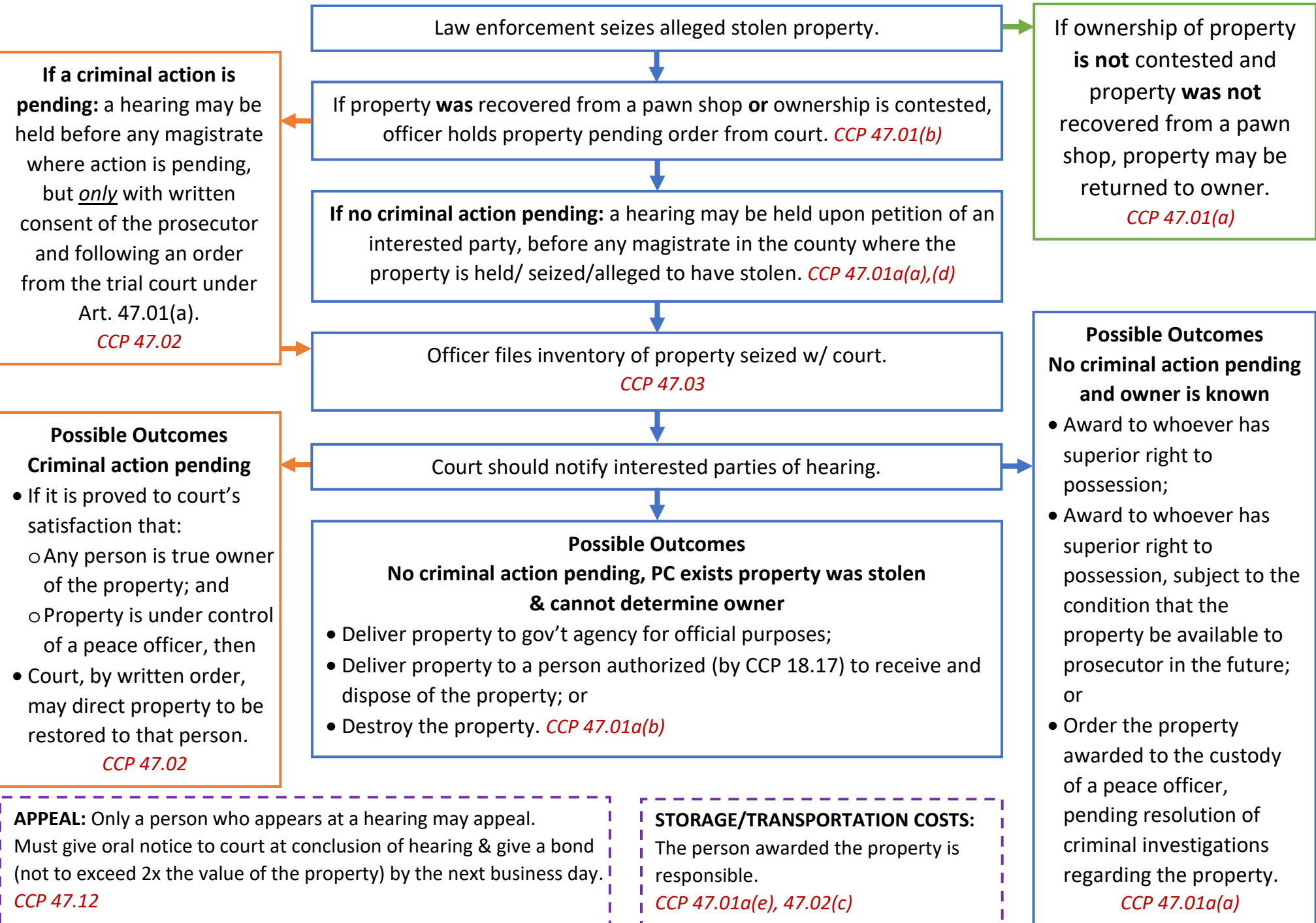
An order to destroy the dog is automatically **STAYED** for 10 days from the date of the order.
The applicant or the owner may appeal by filing a notice of appeal (and, if applicable, an appeal bond as determined by the court) within 10 days after the date the decision was issued. The amount of the appeal bond is based on estimated costs to house and care for an impounded dog pending the appeal. The dog may not be destroyed pending appeal.

Disposition of Seized Property
Code of Criminal Procedure Art. 18.18(b), (g)

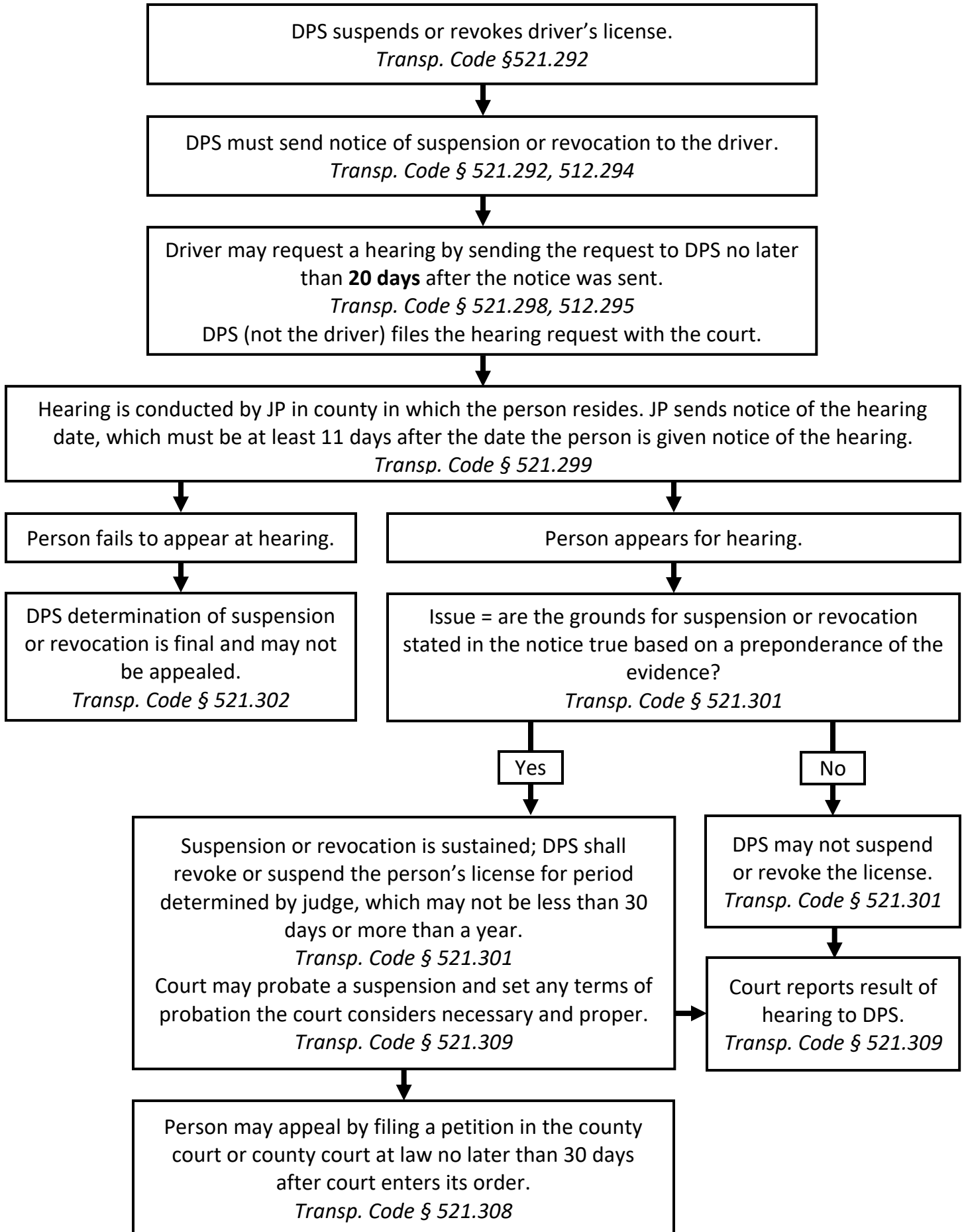
<u>ITEM SEIZED</u>	<u>STATUTE THAT DEFINES ITEM</u>
Gambling device or equipment, altered gambling equipment, or gambling paraphernalia	<ul style="list-style-type: none"> • Penal Code § 47.01
Gambling proceeds	
Obscene device or material <ul style="list-style-type: none"> • Includes digital images and the media and equipment on which those images are stored 	<ul style="list-style-type: none"> • Penal Code §43.21
Child pornography <ul style="list-style-type: none"> • Includes digital images and the media and equipment on which those images are stored 	
Prohibited weapon	<ul style="list-style-type: none"> • Penal Code § 46.05
Scanning device or re-encoder	<ul style="list-style-type: none"> • Business & Commerce Code § 522.001
Criminal instrument	<ul style="list-style-type: none"> • Penal Code § 16.01(b)(1)
Dog-fighting equipment <ul style="list-style-type: none"> • Equipment used for training or handling a fighting dog, including a harness, treadmill, cage, decoy, pen, house for keeping a fighting dog, feeding apparatus, or training pen; • Equipment used for transporting a fighting dog, including any automobile, or other vehicle, and its appurtenances which are intended to be used as a vehicle for transporting a fighting dog; • Equipment used to promote or advertise an exhibition of dog fighting, including a printing press or similar equipment, paper, ink, or photography equipment; or • A dog trained, being trained, or intended to be used to fight with another dog. 	

Disposition of Stolen Property

Code of Criminal Procedure, Chapter 47



Driver's License Suspension/Revocation Proceeding



List of Public Nuisances **(Health and Safety Code § 343.011)**

1. Keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
2. Keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
3. Maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests;
4. Allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
5. Maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation, obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
6. Maintaining on abandoned and unoccupied property in a neighborhood a swimming pool that is not protected with:
 - a fence that is at least four feet high and that has a latched and locked gate; and
 - a cover over the entire swimming pool that cannot be removed by a child;
7. Maintaining on any property in a neighborhood in a county with a population of more than 1.1 million a swimming pool that is not protected with:
 - a fence that is at least four feet high and that has a latched gate that cannot be opened by a child; or
 - a cover over the entire swimming pool that cannot be removed by a child;
8. Maintaining a flea market in a manner that constitutes a fire hazard;
9. Discarding refuse or creating a hazardous visual obstruction on:
 - county-owned land; or land or easements owned or held by a special district that has the commissioners court of the county as its governing body;
10. Discarding refuse on the smaller of:
 - the area that spans 20 feet on each side of a utility line; or
 - the actual span of the utility easement;
11. Filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the county to improve or maintain a drainage easement;
12. Discarding refuse on property that is not authorized for that activity; or
13. Surface discharge from an on-site sewage disposal system as defined by Health and Safety Code § 366.002.

Legal Definitions of Words Used in List of Public Nuisances (Health and Safety Code § 343.002)

"Building" means a structure built for the support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other moveable property.

"Garbage" means decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product.

"Neighborhood" means:

- a platted subdivision; or
- property contiguous to and within 300 feet of a platted subdivision.

"Platted subdivision" means a subdivision that has its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located.

"Premises" means all privately owned property, including vacant land or a building designed or used for residential, commercial, business, industrial, or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, steps, or other structure appurtenant to the property.

"Public street" means the entire width between property lines of a road, street, way, thoroughfare, or bridge if any part of the road, street, way, thoroughfare, or bridge is open to the public for vehicular or pedestrian traffic.

"Receptacle" means a container that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin, or other pests.

"Refuse" means garbage, rubbish, paper, and other decayable and nondecayable waste, including vegetable matter and animal and fish carcasses.

"Rubbish" means nondecayable waste from a public or private establishment or residence.

"Undeveloped land" means land in a natural, primitive state that lacks improvements, infrastructure, or utilities and that is located in an unincorporated area at least 5,000 feet outside those the boundaries of a home-rule municipality.

"Weeds" means all rank and uncultivated vegetable growth or matter that:

- has grown to more than 36 inches in height; or
- creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, regardless of the height of the weeds.

"Flea market" means an outdoor or indoor market, conducted on non-residential premises, for selling secondhand articles or antiques, unless conducted by a religious, educational, fraternal, or charitable organization.

PUBLIC NUISANCE AND ENVIRONMENTAL HEARINGS CHART

Chapter 343, Health & Safety Code

A full list of public nuisances and definitions is found on the List of Public Nuisances. Separate from the process described below, a criminal complaint may be filed under HSC Chapters 341 or 343 or Water Code Chapter 7. Procedure in those cases is the same as in any criminal case. See Chapter 11 of the *Criminal Deskbook* for a discussion of those offenses, including the fine amounts and authority of the court to order abatement of the nuisance.

Written notice of the existence of a public nuisance must be given to:

- (1) the **owner, lessee, occupant, agent, or person in charge of the premises; and**
- (2) **the person responsible for causing a public nuisance** on the premises when that person is not the owner, lessee, occupant, agent, or person in charge of the premises and the person responsible can be identified.

Notice is typically provided by a county environmental health official or another county employee employed to address public nuisances.

The notice must state:

- (1) the **specific condition** that constitutes a nuisance;
- (2) that **the person receiving notice shall abate the nuisance** before the:
 - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; **or**
 - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises;
- (3) that **failure to abate** the nuisance may result in:
 - (A) **abatement** by the county;
 - (B) **assessment of costs** to the person responsible for causing the nuisance when that person can be identified; **and**
 - (C) **a lien against the property** on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;
- (4) that the **county may prohibit or control access** to the premises to prevent a continued or future nuisance described by Section 343.011(c)(1), (6), (9), or (10); **and**
- (5) that **the person receiving notice is entitled to submit a written request for a hearing** before the:
 - (A) 31st day after the date on which the notice is served, if the person has not previously received a notice regarding a nuisance on the premises; **or**
 - (B) 10th business day after the date on which the notice is served, if the person has previously received a notice regarding a nuisance on the premises.

The notice must be given:

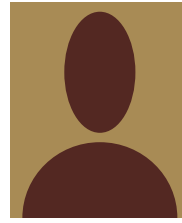
- (1) by **service in person or by registered or certified mail**, return receipt requested; **or**
- (2) if personal service cannot be obtained or the address of the person to be notified is unknown, **by posting a copy of the notice on the premises on which the nuisance exists and by publishing the notice in a newspaper** with general circulation in the county two times within 10 consecutive days.

The court may assess, in an unappealable order:

- (1) the **cost of abating the nuisance**, including management, remediation, storage, transportation, and disposal costs, and damages and other expenses incurred by the county;
- (2) the **cost of legal notification** by publication; **and**
- (3) an **administrative fee of not more than \$100** on the person receiving notice under Section 343.022.

Eligibility for an ODL

Texas Occupational Driver's License



Tjete



(Transportation Code § 521.242; 521.001(a)(6))

For a person to be eligible for an ODL, their license (including a permit, a privilege to operate a motor vehicle, and a non-resident's operating privilege) has to first be suspended.

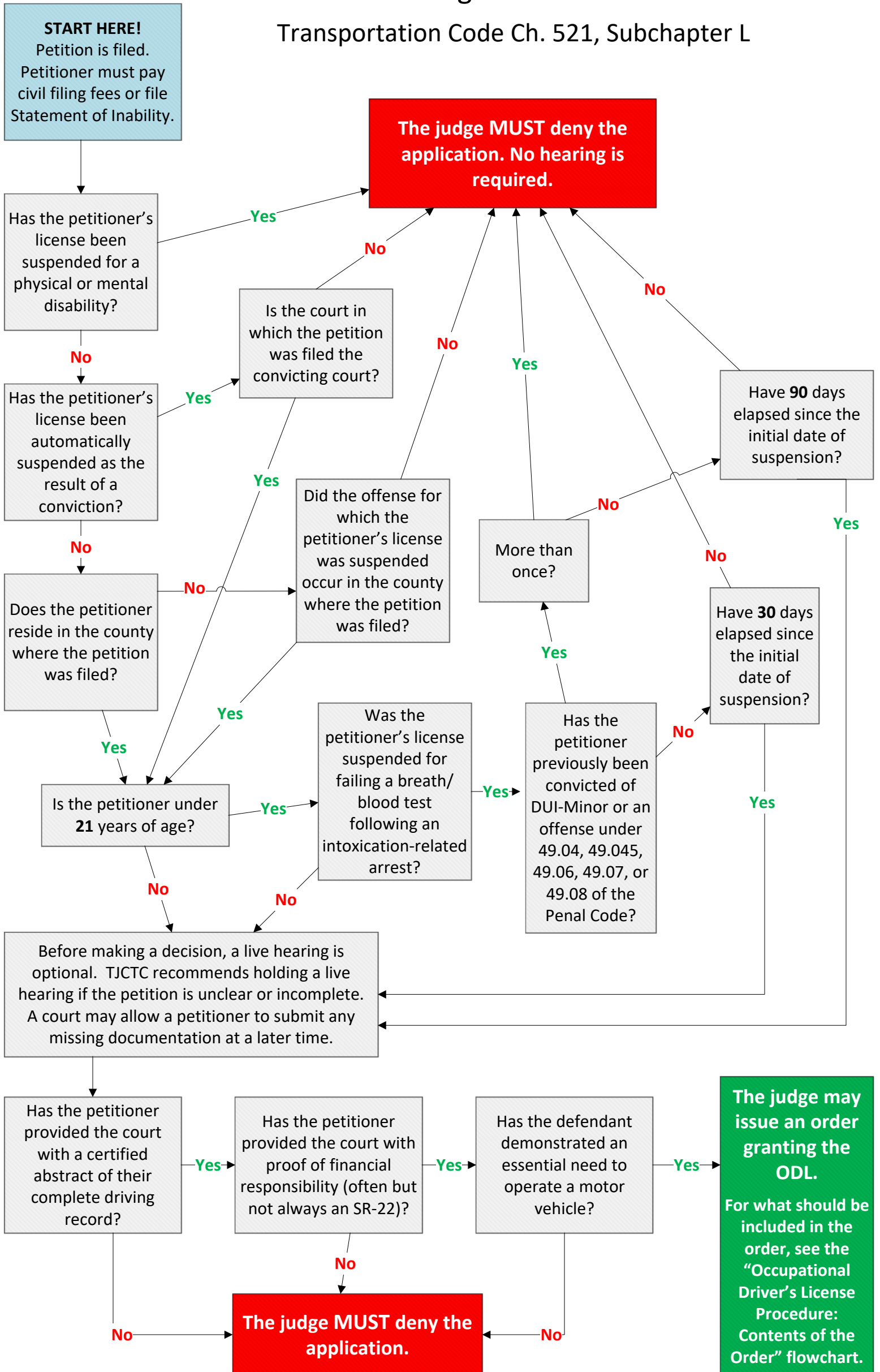
[Note: All citations below are to the Transportation Code.]

Reason Does Not Have License	Eligible for an ODL?
License expired or was never issued and they <i>just haven't gone to the DMV</i> to get it.	No! There has been no "suspension." They could just go to the DMV, so that's what they need to do.
License or privilege suspended due to a <i>physical or mental disability or impairment</i> .	No! This is an exception in the law – suspensions for this reason are not eligible.
License or privilege <i>automatically suspended or canceled for a conviction</i> of an offense. <ul style="list-style-type: none"> Offenses where conviction results in automatic suspension are listed in Subchapters O & P of Ch. 521. 	Yes! But must file application in the court where they were convicted, which will <i>almost never be a justice court</i> . (And applicant must not have been issued more than one ODL after an automatic suspension upon conviction in the past 10 years.)
License or privilege suspended for a reason <i>other than</i> an automatic suspension upon a conviction (<i>so administratively suspended by DPS on its own or as a result of a court order</i>). Includes: <ul style="list-style-type: none"> Refusal to submit to a breath or blood test following a DWI stop (Ch. 724). Providing a breath/blood sample with over .08 BAC following a DWI stop (Ch. 524). Any cause for suspension listed under 521.292. 	Yes! Must file application in a justice, county, or district court in the precinct or county in which: <ul style="list-style-type: none"> The person resides; or The offense occurred for which the license was suspended.
License cannot be renewed because of <i>placement in OMNI</i> .	No! This is not a suspension. This is a non-renewal. The remedy is for them to do what is necessary to remove themselves from OMNI.
License revoked for failure to pay child support.	No! This is not a suspension. This is a revocation. A person whose license has been revoked due to non-payment of child support is not eligible for an ODL.

But What If....?	Eligible for an ODL?
The applicant's <i>license has expired</i> , and they now can't renew it for a reason listed above that would allow them to get an ODL?	Yes! The applicant's privilege has been suspended, so they are eligible.
The applicant <i>never had a license</i> , and they now can't get one for a reason listed above that would allow them to get an ODL?	Maybe! (Up to the judge but be consistent.) <ul style="list-style-type: none"> Literal reading of statute: no license or privilege has been suspended, so not eligible. DPS position: will honor an ODL in this situation if all other requirements are met.
The applicant is a <i>minor</i> and is otherwise eligible.	Yes! (Subject to the limitations described in 524.022(d)).
The applicant wants an ODL <i>to operate a CMV</i> and is otherwise eligible.	No! (But a CDL holder may get an ODL to operate a non-CMV vehicle).

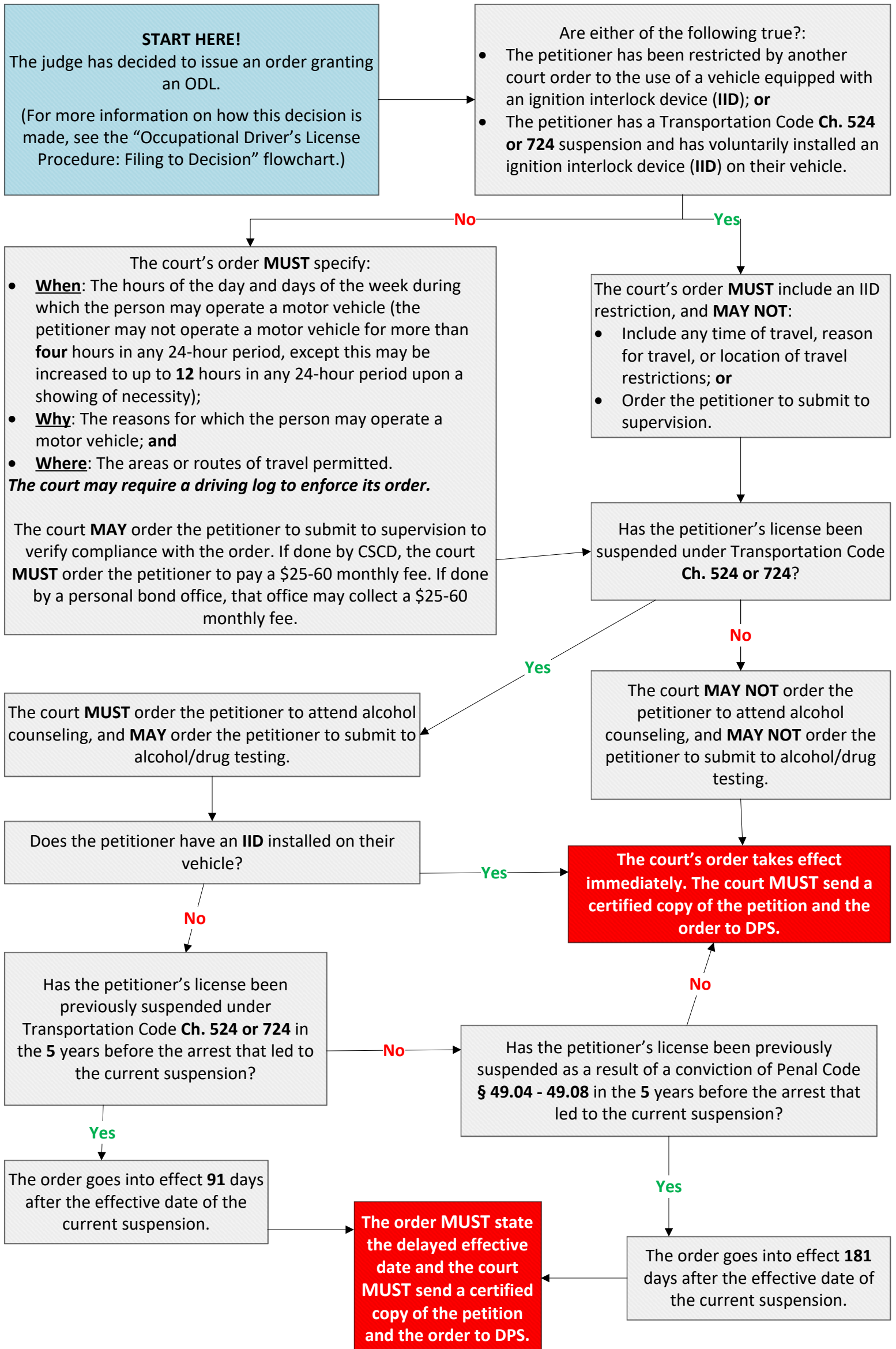
Occupational Driver's License Procedure: Filing to Decision

Transportation Code Ch. 521, Subchapter L



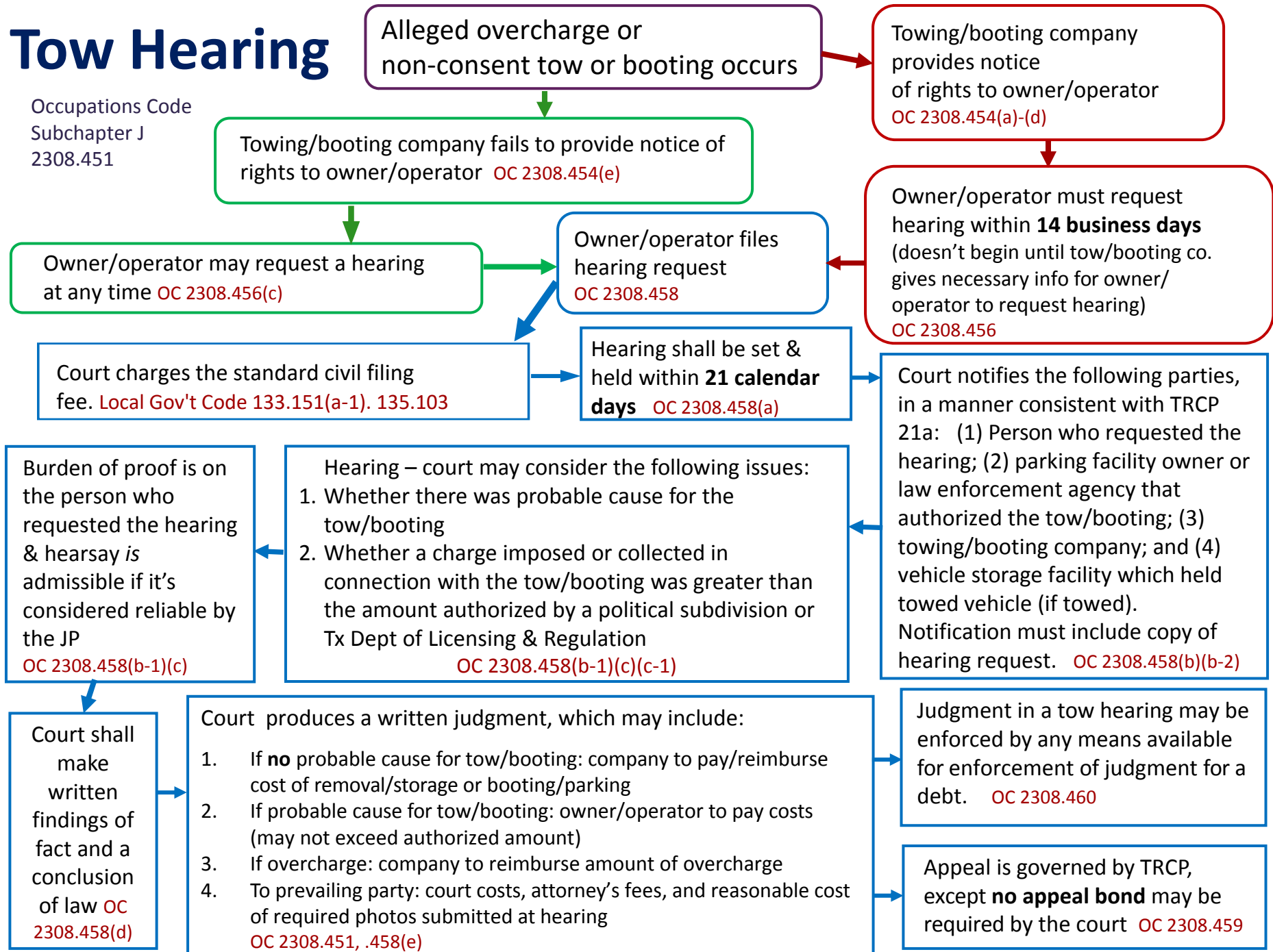
Occupational Driver's License Procedure: Contents of the Order

Transportation Code Ch. 521, Subchapter L



Tow Hearing

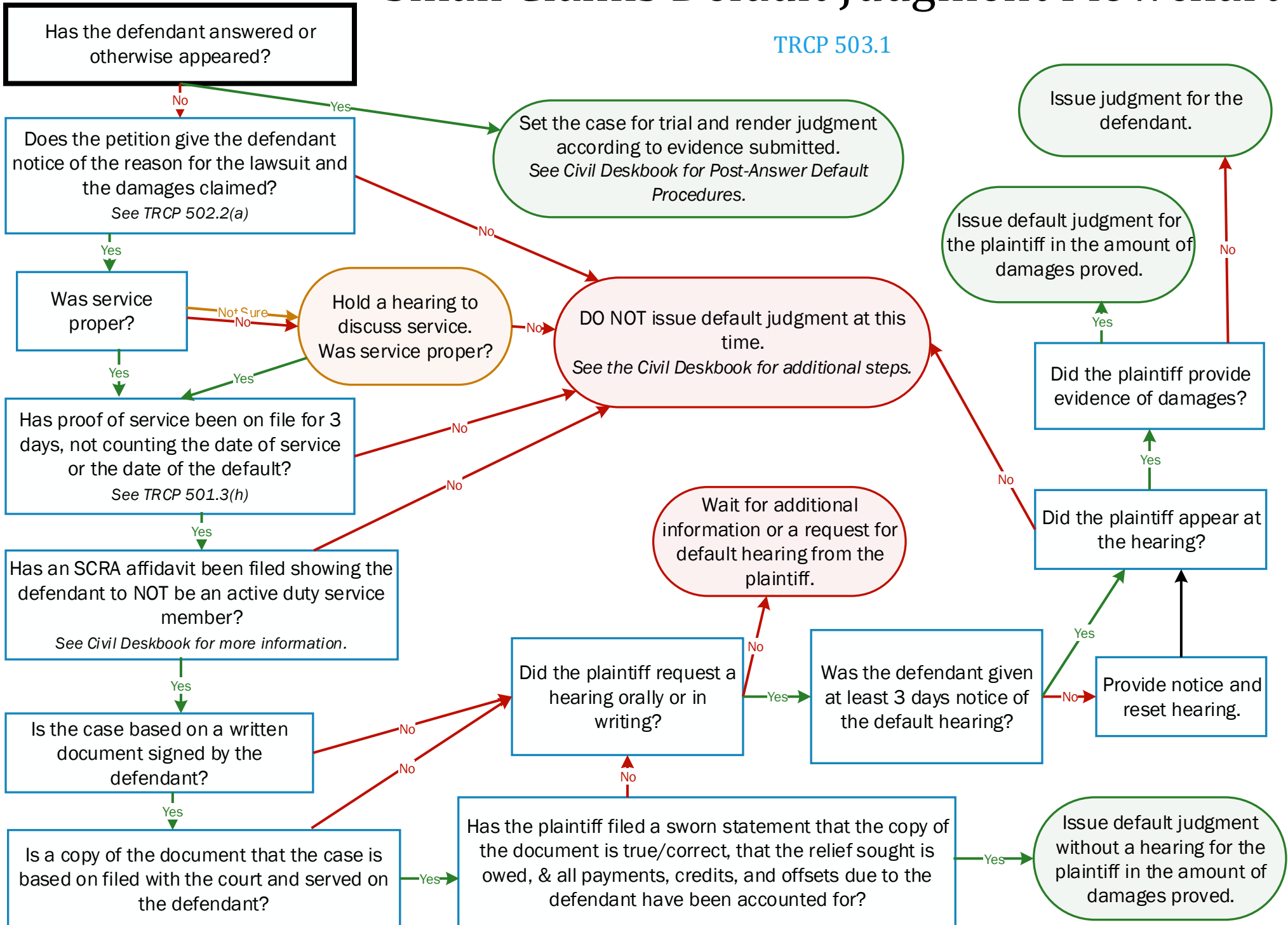
Occupations Code
Subchapter J
2308.451



Start Here

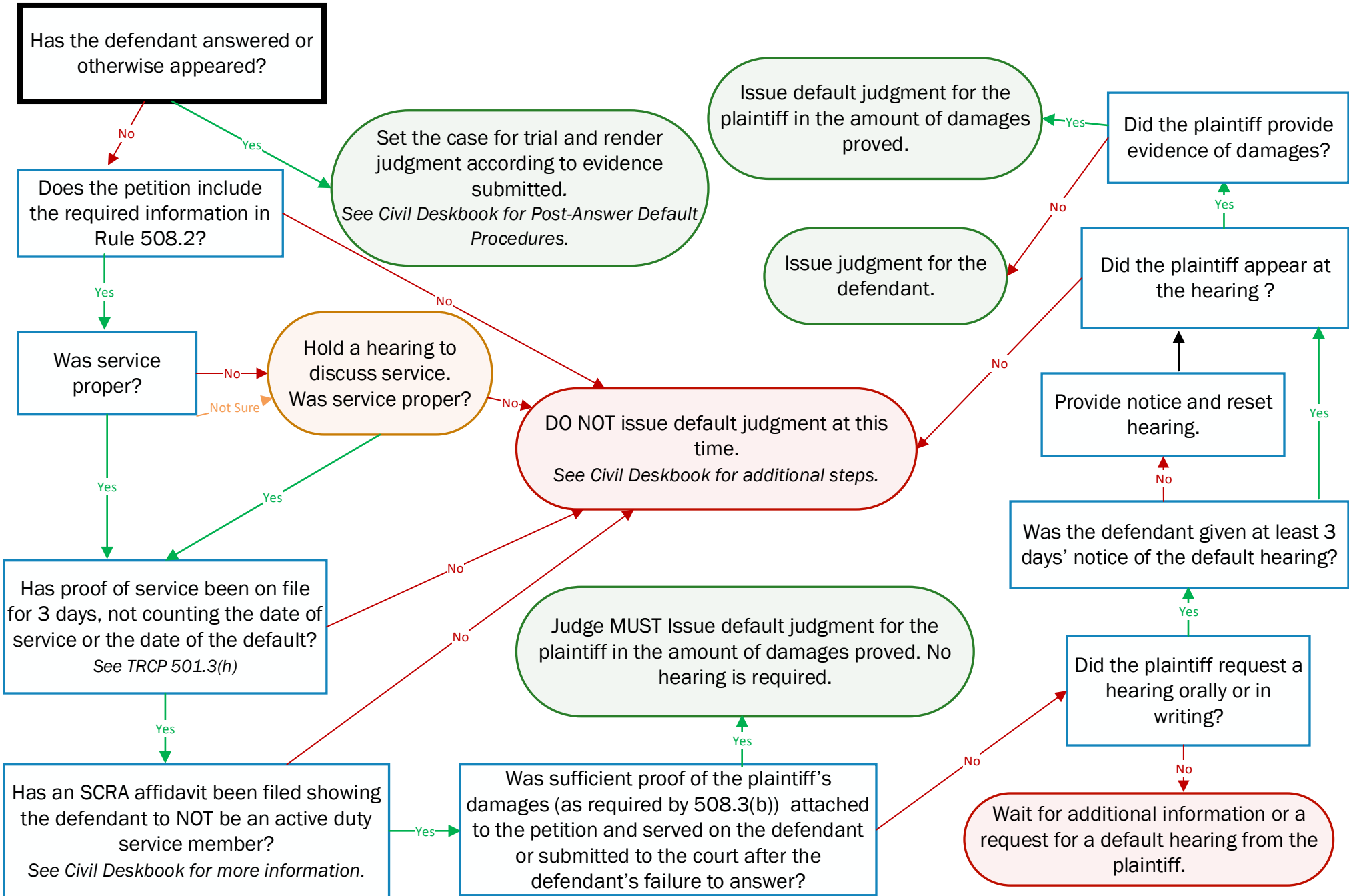
Small Claims Default Judgment Flowchart

TRCP 503.1

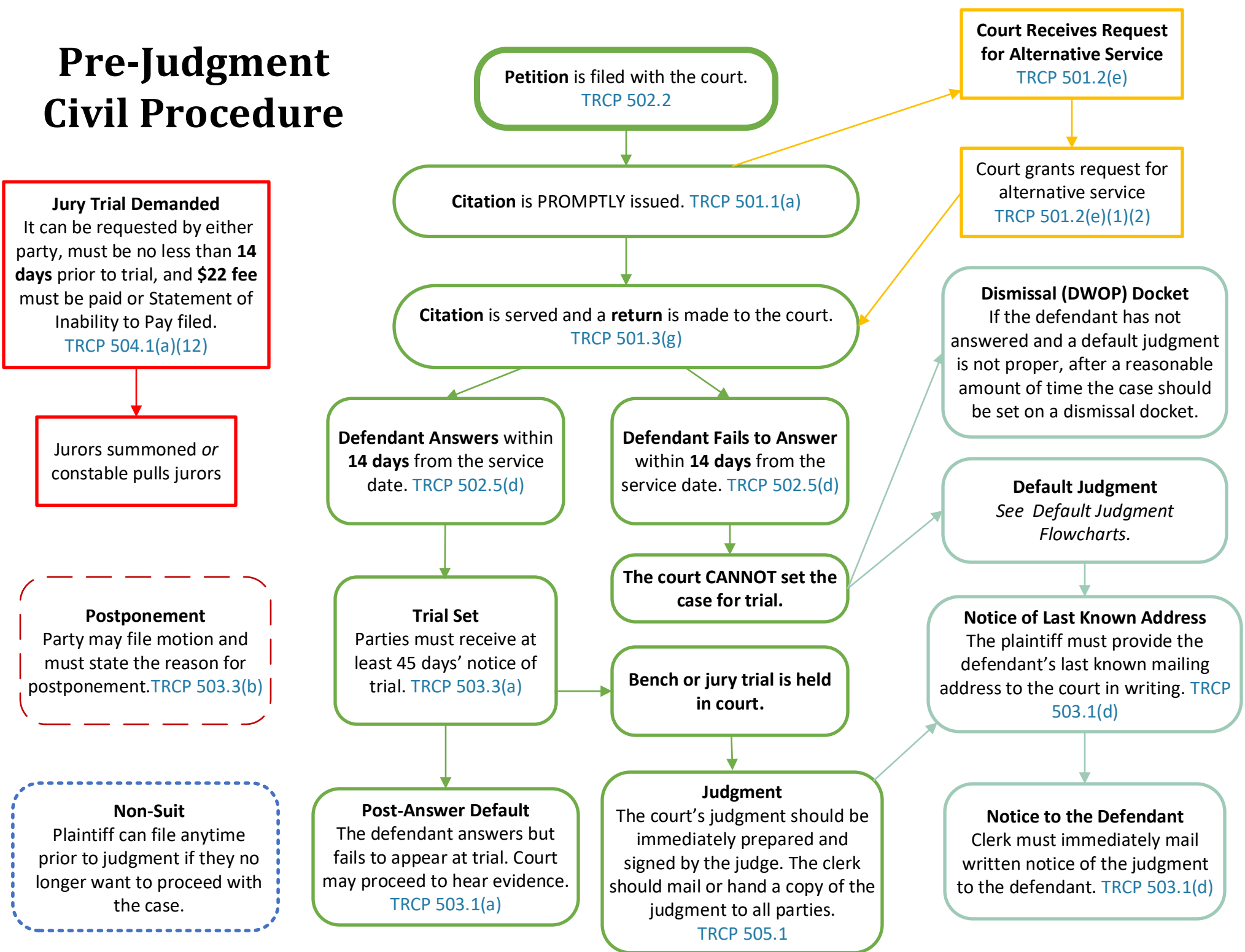


Debt Claim Default Judgment Flowchart

Start Here



Pre-Judgment Civil Procedure



Jury Trial Demanded
It can be requested by either party, must be no less than **14 days** prior to trial, and **\$22 fee** must be paid or Statement of Inability to Pay filed.
TRCP 504.1(a)(12)

Jurors summoned or constable pulls jurors

Postponement
Party may file motion and must state the reason for postponement.
TRCP 503.3(b)

Non-Suit
Plaintiff can file anytime prior to judgment if they no longer want to proceed with the case.

Petition is filed with the court.
TRCP 502.2

Citation is PROMPTLY issued. TRCP 501.1(a)

Citation is served and a return is made to the court.
TRCP 501.3(g)

Defendant Answers within **14 days** from the service date. TRCP 502.5(d)

Defendant Fails to Answer within **14 days** from the service date. TRCP 502.5(d)

Trial Set
Parties must receive at least 45 days' notice of trial. TRCP 503.3(a)

The court **CANNOT** set the case for trial.

Bench or jury trial is held in court.

Post-Answer Default
The defendant answers but fails to appear at trial. Court may proceed to hear evidence.
TRCP 503.1(a)

Judgment
The court's judgment should be immediately prepared and signed by the judge. The clerk should mail or hand a copy of the judgment to all parties.
TRCP 505.1

Court Receives Request for Alternative Service
TRCP 501.2(e)

Court grants request for alternative service
TRCP 501.2(e)(1)(2)

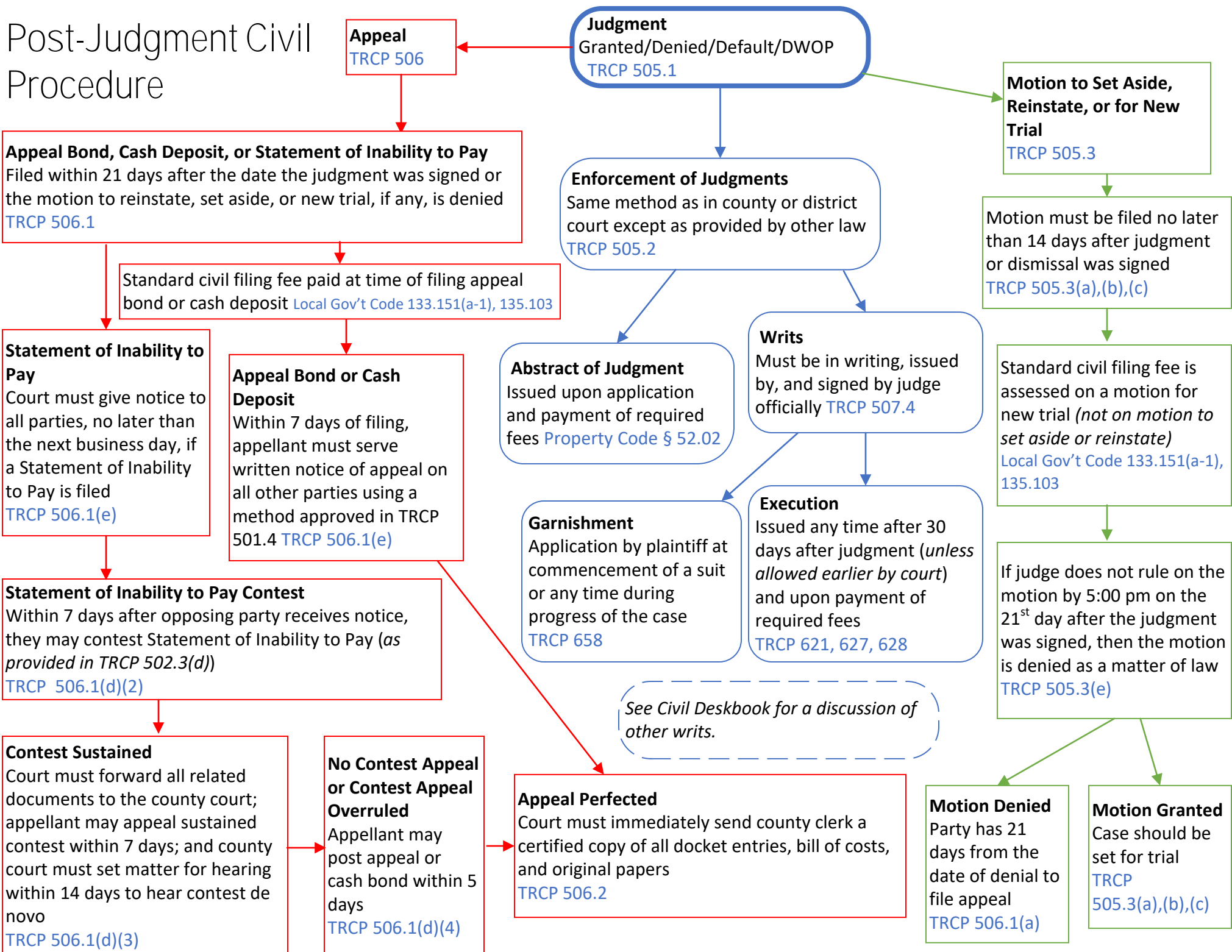
Dismissal (DWOP) Docket
If the defendant has not answered and a default judgment is not proper, after a reasonable amount of time the case should be set on a dismissal docket.

Default Judgment
See Default Judgment Flowcharts.

Notice of Last Known Address
The plaintiff must provide the defendant's last known mailing address to the court in writing. TRCP 503.1(d)

Notice to the Defendant
Clerk must immediately mail written notice of the judgment to the defendant. TRCP 503.1(d)

Post-Judgment Civil Procedure



Appeal
TRCP 506

Judgment
Granted/Denied/Default/DWOP
TRCP 505.1

**Motion to Set Aside,
Reinstate, or for New
Trial**
TRCP 505.3

Appeal Bond, Cash Deposit, or Statement of Inability to Pay
Filed within 21 days after the date the judgment was signed or
the motion to reinstate, set aside, or new trial, if any, is denied
TRCP 506.1

Enforcement of Judgments
Same method as in county or district
court except as provided by other law
TRCP 505.2

Motion must be filed no later than
14 days after judgment
or dismissal was signed
TRCP 505.3(a),(b),(c)

Standard civil filing fee paid at time of filing appeal
bond or cash deposit Local Gov't Code 133.151(a-1), 135.103

**Statement of Inability to
Pay**
Court must give notice to
all parties, no later than
the next business day, if
a Statement of Inability
to Pay is filed
TRCP 506.1(e)

**Appeal Bond or Cash
Deposit**
Within 7 days of filing,
appellant must serve
written notice of appeal on
all other parties using a
method approved in TRCP
501.4 TRCP 506.1(e)

Abstract of Judgment
Issued upon application
and payment of required
fees Property Code § 52.02

Writs
Must be in writing, issued
by, and signed by judge
officially TRCP 507.4

Standard civil filing fee is
assessed on a motion for
new trial (not on motion to
set aside or reinstate)
Local Gov't Code 133.151(a-1),
135.103

Statement of Inability to Pay Contest
Within 7 days after opposing party receives notice,
they may contest Statement of Inability to Pay (as
provided in TRCP 502.3(d))
TRCP 506.1(d)(2)

Garnishment
Application by plaintiff at
commencement of a suit
or any time during
progress of the case
TRCP 658

Execution
Issued any time after 30
days after judgment (unless
allowed earlier by court)
and upon payment of
required fees
TRCP 621, 627, 628

If judge does not rule on the
motion by 5:00 pm on the
21st day after the judgment
was signed, then the motion
is denied as a matter of law
TRCP 505.3(e)

See Civil Deskbook for a discussion of
other writs.

Contest Sustained
Court must forward all related
documents to the county court;
appellant may appeal sustained
contest within 7 days; and county
court must set matter for hearing
within 14 days to hear contest de
novo
TRCP 506.1(d)(3)

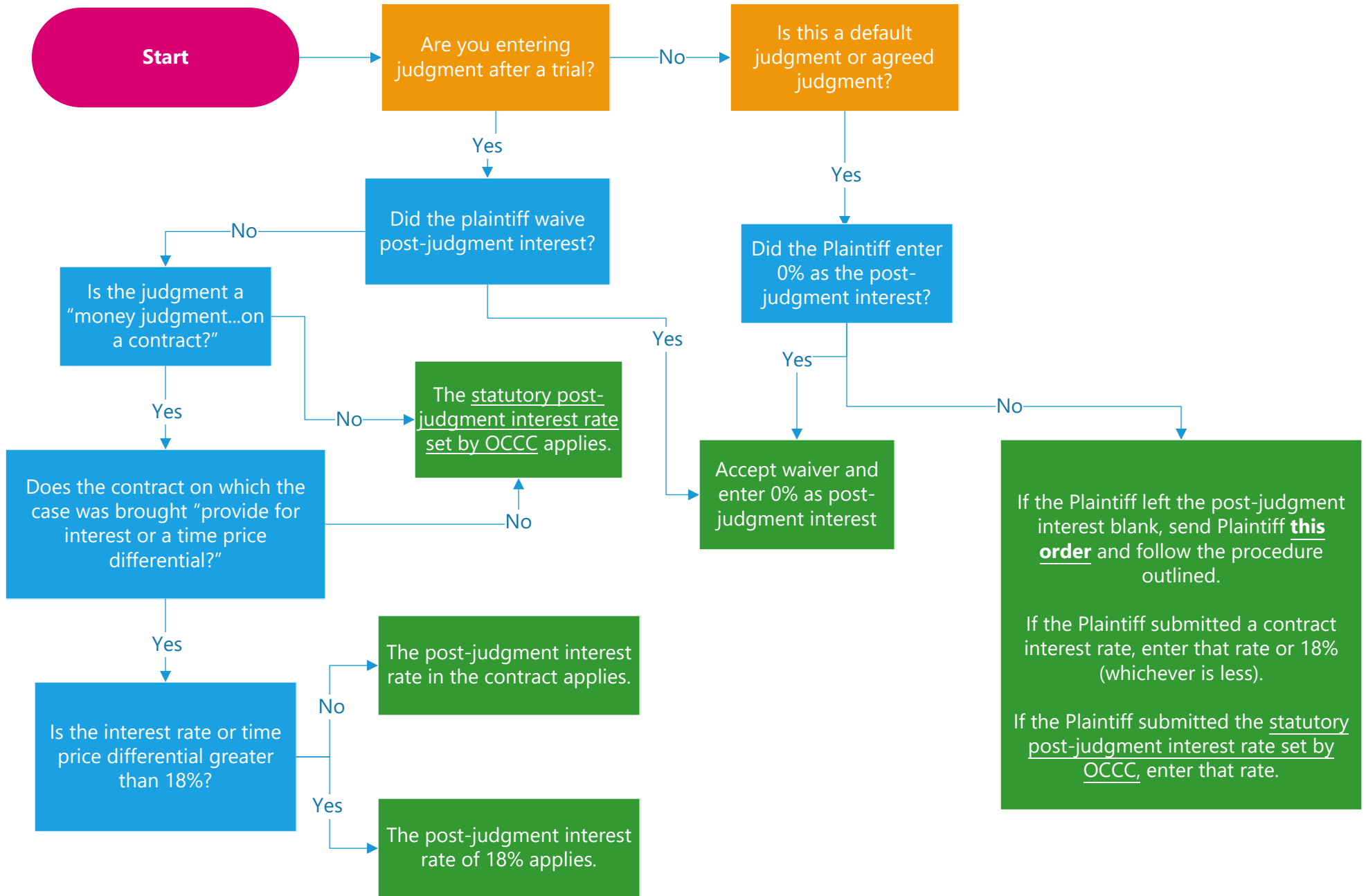
**No Contest Appeal
or Contest Appeal
Overruled**
Appellant may
post appeal or
cash bond within 5
days
TRCP 506.1(d)(4)

Appeal Perfected
Court must immediately send county clerk a
certified copy of all docket entries, bill of costs,
and original papers
TRCP 506.2

Motion Denied
Party has 21
days from the
date of denial to
file appeal
TRCP 506.1(a)

Motion Granted
Case should be
set for trial
TRCP
505.3(a),(b),(c)

Post-Judgment Interest Flowchart



Exempt Property Benchcard

What is Exempt Property?

Texas property law exempts certain categories of property from seizure to satisfy a debt. This means that if a judgment is entered against a person, it can only be satisfied by specific categories of properties that are not exempt by the law called, **non-exempt property**. Chapter 41 and 42 of the Texas Property Code govern most property exemptions.

Real Property			
Type	Amount		Statute
Rural Homestead	Family	200 acres	Property Code 41.001, 41.002
	Single Adult	100 acres	
Urban Homestead	10 acres		
Burial Plots	One or more		Property Code 41.001

Personal Property – No Aggregate Limits	
Type	Statute
Current Wages for Personal Services <i>*except for the enforcement of court-ordered child support payments, spousal maintenance, defaulted federal student loans, and federal income taxes</i>	Property Code 42.001
Professionally Prescribed Health Aids <i>*of debtor or debtor's dependent</i>	
Alimony, Spousal Support, or Spousal Maintenance	
Child Support	
Bible or Other Book Containing Sacred Writings of a Religion	
Savings and Retirement Accounts	Property Code 42.001, 42.0021
College Savings Plans	Property Code 42.0022

Personal Property – With Aggregate Limits		
Type	Aggregate Value Limits	
	Family	\$100,000
	Single Adult	\$50,000
Unpaid Commissions for Personal Services	<i>*Not to exceed 25%</i>	
Home Furnishings (including family heirlooms)		
Food		
Farming or Ranching Vehicles and Implements		
Tools, Equipment, Books, and Apparatus (including boats and motor vehicles used in trade or profession)		
Clothes		
Jewelry	<i>*Not to exceed 25%</i>	
Two Firearms		
Athletic and Sporting Equipment (including bicycles)		
Motor Vehicles (two-wheeled, three-wheeled, or four-wheeled) for each member of the family or single adult who holds a driver’s license or who relies on another to operate the vehicle for the benefit of the non-licensed person)		
Two Horses, Mules, or Donkeys and a Saddle, Blanket, Bridle, and Food for each		
12 Head of Cattle		
60 Head of Other Types of Livestock		
120 Fowl		
Household Pets		

What are Aggregate Limits?

These are limits of **total** exempt personal property for an individual or family. The values of different types of personal property listed on this chart added together must not exceed the aggregate limits set for a family or individual. There are some additional limitations for some categories of property listed in the above chart.

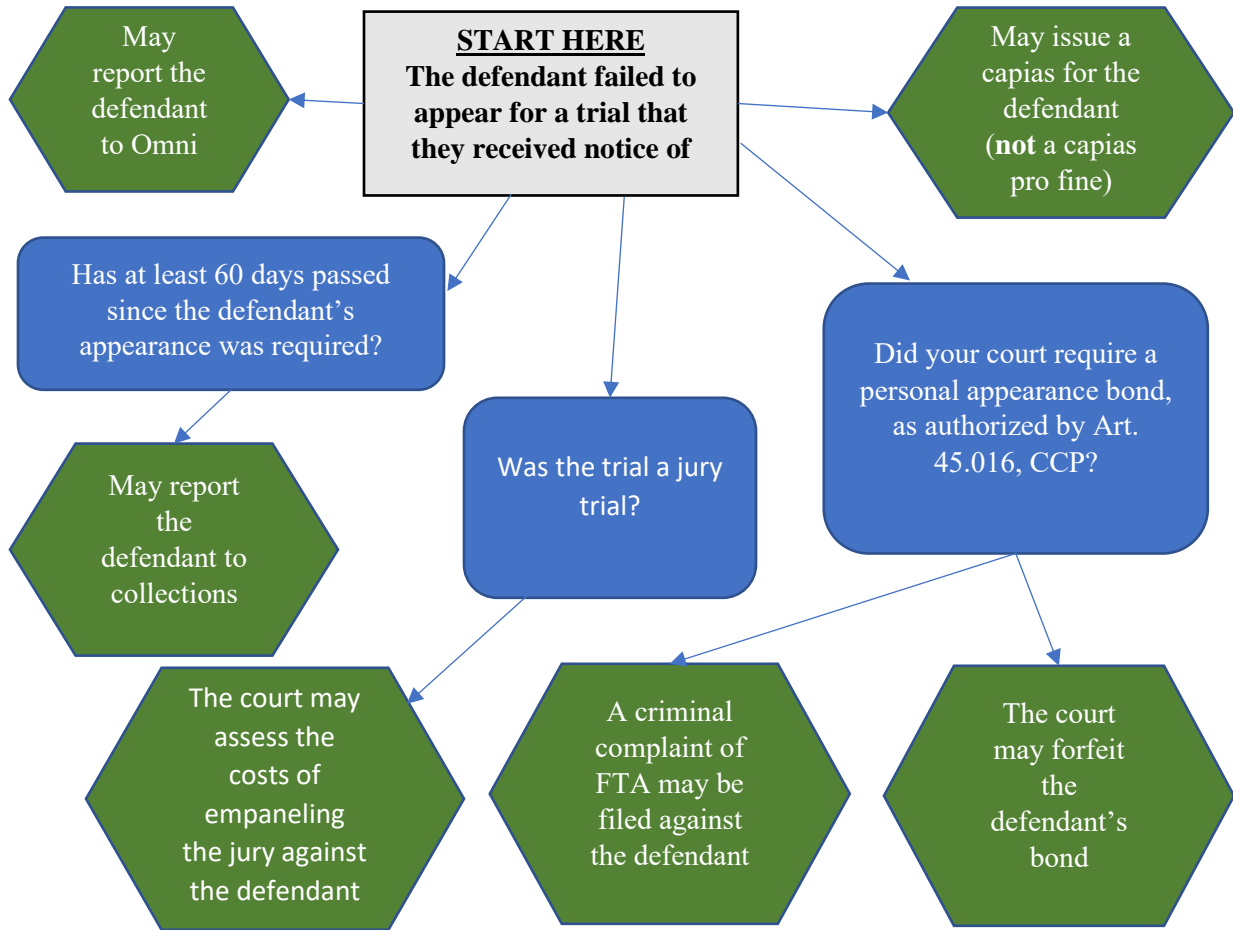
Example: A person claims home furnishings, tools, and jewelry that together are valued at approximately \$50,000 as exempt property. Note – the value of the jewelry can only make up 25% or less of the \$50,000 (or \$12,500 or less).

Failure to Appear to Enter a Plea

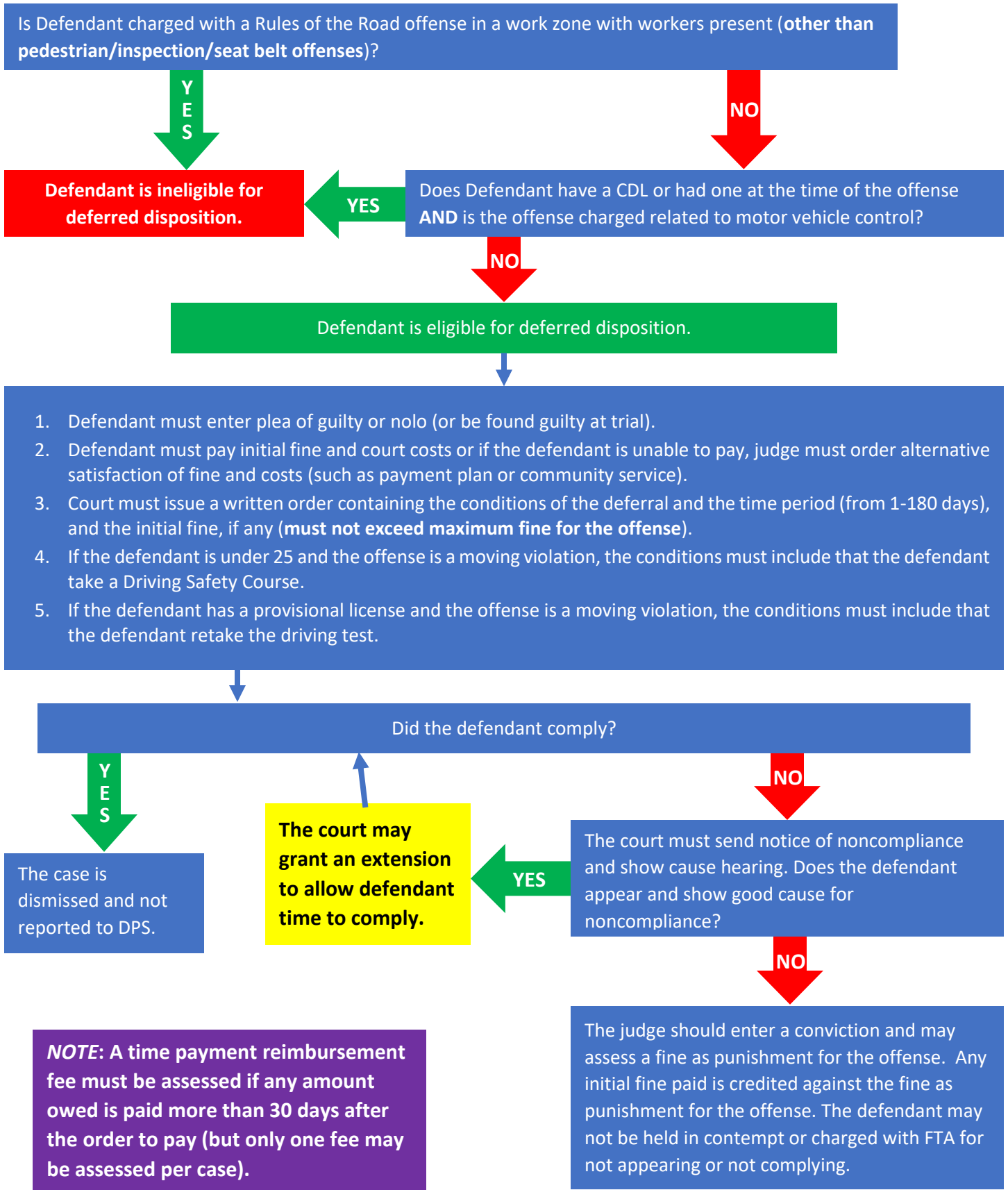


Failure to Appear for Criminal Trial

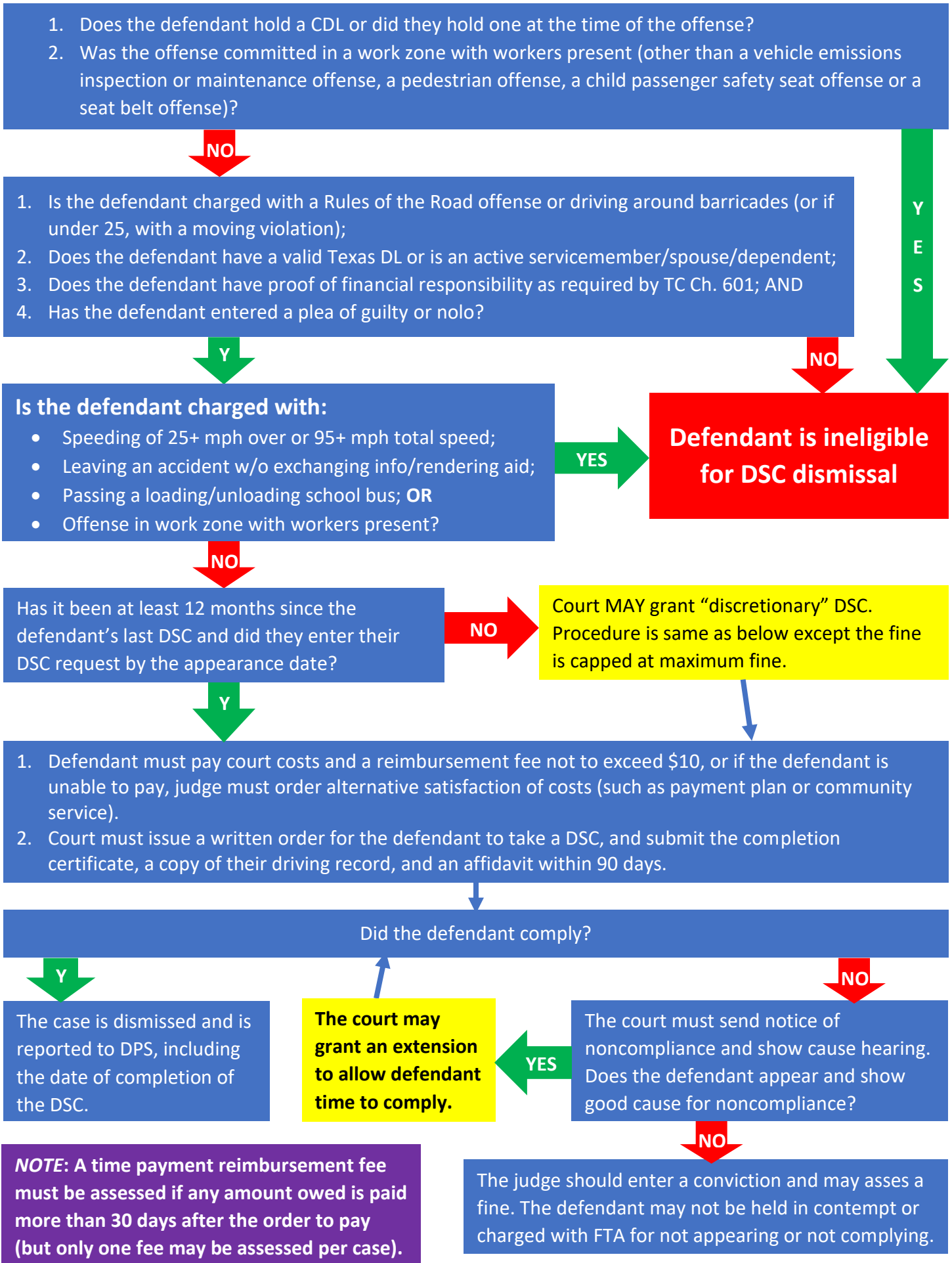
To use this charts, begin in the silver box. The blue boxes are a filter to see if the remedies in the green boxes can be used by the court.



Deferred Disposition



DSC Dismissal

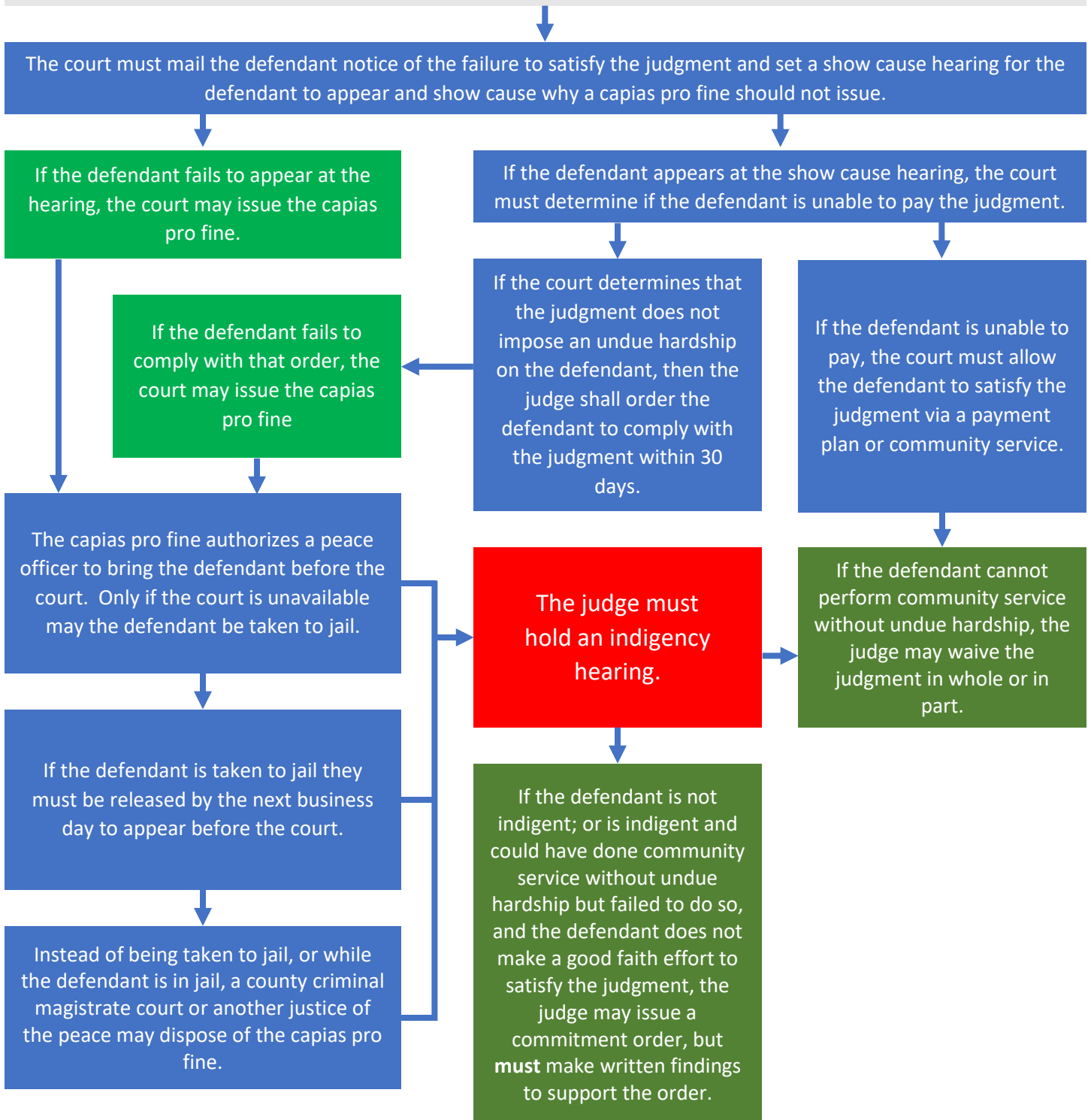


Capias Pro Fine

START HERE

The defendant fails to satisfy a judgment.

If the defendant was under 17 at the time of the offense, please see the *Juvenile Deskbook* for more information.



IMPORTANT NOTE

The court must recall any capias pro fine if before it is executed the defendant:

- (1) notifies the court they are having difficulty paying the fine and costs; or
- (2) voluntarily appears and makes a good faith effort to resolve the capias pro fine.

CMV & CDL Offense Chart

Offense Title	Code Section	Fine Range	Dismiss w/o State Motion?
Failure to Have CDL or CDL Permit in Possession While Driving CMV	TC 522.011	\$1 - 500; \$1 - 1000 if conviction in past year	Needs motion; court may assess an administrative fee of up to \$10 if dismissed on proof of having CDL or Permit valid at the time of the offense.
Operate CMV in Violation of Endorsement	TC 522.042	\$1 - 500	No
Operate CMV in Violation of Restriction	TC 522.043	\$1 - 500	No
Equipment Violation in Personal Vehicle by a CDL holder	TC 547.004	\$1 - 200	Yes, if remedied before first court appearance; fine of up to \$10.
Equipment Violation in Commercial Vehicle	TC 547.004	\$1 - 200	No
No Insurance in Personal Vehicle by a CDL holder	TC 601.191	\$175 - 350; \$350 - 1000 if previous conv.	Yes, if defendant produces insurance that was valid at the time of the offense.
No Insurance in Commercial Vehicle or No Insurance on File with DPS for Commercial Vehicle	TC 643.103	\$1 - 500	No
Failure to Register CMV or Carry Cab Card	TC 643.253	\$1 - 500	No
Violation of Regulation Adopted under Admin. Code (i.e., no medical certificate, using wireless device)	TC 644.151	\$1 - 500	No
Operation of CMV at Weight Greater than Registered	TC 502.412	\$1 - 200	No
Failure to Carry Registration Receipt	TC 621.501	\$1 - 200	No

CMV & CDL Weight Offense Chart

Offense Title	Code Section	Fine Range
Single Axle Weight Heavier than 20K lbs. or Tandem Axle Weight Heavier than 34K lbs. <i>Less than 2500 lbs. over</i> <i>2,500 – 5,000 lbs. over</i> <i>More than 5,000 lbs. over</i>	TC 621.101(a)(1),(2)* ^ TC 621.506	\$100 - 500 \$500 - \$1,000 \$1,000 - \$2,500
Overall Gross Weight on Consecutive Axles Heavier than Allowed by Statute Formula	TC 621.101(a)(3) TC 621.506	\$100-250
Tires Carrying Weight Higher than Rating	TC 621.101(a)(4) TC 621.506	\$100-250
Gross Weight on Consecutive Axles over 80K lbs. <i>Less than 2500 lbs. over</i> <i>2,500 – 5,000 lbs. over</i> <i>5,001 – 10K lbs. over</i> <i>10,001 – 20K lbs. over</i> <i>20,001 – 40K lbs. over</i> <i>More than 40K lbs. over</i>	TC 621.101(b) * TC 621.506	\$100 - 500 \$500 - 1,000 \$1,000 - 2,500 \$2,500 - 5,000 \$5,000 - 7,000 \$7,000 - 10,000
Violation of County Load Limit	TC 621.301; TC 621.507	\$1 - 200

NOTES

*On conviction of a third offense within one year of a previous conviction of any offense marked with a * in this chart, the maximum fine may be doubled.

^ On conviction of a violation of an axle weight limitation, the court may assess a fine less than the applicable minimum amount if the court finds that when the violation occurred, the vehicle was registered to carry the maximum gross weight authorized for that vehicle under Section 621.101; and the gross weight of the vehicle did not exceed that maximum gross weight.

A defendant convicted of operating a vehicle or combination of vehicles at a weight:

- a. for which an issued permit could have authorized the operation, but who does not hold the permit, **or**
- b. in excess of 84,000 pounds with a load that can reasonably be dismantled,

shall be punished, **in addition to the above fine**, by a fine of not less than \$500 or more than \$1,000, or if there is a previous conviction, the offense is punishable by an additional fine of not less than \$2,500 or more than \$5,000.

Comparison of Deferred Disposition and Driving Safety Course Dismissals

	Deferred Disposition	Driving Safety Course
Authorizing Statute	CCP Art. 45.051	CCP Art. 45.0511
Up to Court's Discretion?	Yes	Not if defendant meets "mandatory" eligibility requirements
Eligible Offenses	Everything except Disqualified Offenses listed below	Rules of the Road except Disqualified Offenses listed below For Defendants <25 years old, Moving Violations except Disqualified Offenses below
Disqualified Offenses	Offenses related to motor vehicle control committed by CDL holders Rules of the Road offenses (other than inspection and seat belt offenses and offenses committed by pedestrians) committed in work zones with workers present	Speeding ≥ 25 mph over limit Speeding ≥ 95 mph total speed Passing school bus loading/unloading children Leaving scene of accident without exchanging info Failing to stop and render aid after injury accident Any offense committed by person holding a CDL or who held one at time of offense

		Any offense committed in a work zone with workers present other than a vehicle emissions inspection or maintenance offense, a pedestrian offense, a child passenger safety seat offense or a seat belt offense
Length of Deferral Period	1-180 days	90 days
Costs and Fees	<p>Court Costs + Initial Fine (initial fine may not exceed the maximum fine for the offense)</p> <p>Upon conviction, may impose fine as punishment (must credit any “initial fine” paid toward this fine)</p> <p>Time payment reimbursement fee must be assessed if any amount owed is paid more than 30 days after the order to pay (but only one fee may be assessed per case)</p>	<p>“Mandatory DSC”: Court Costs + “Reimbursement Fee” which is capped at \$10</p> <p>“Discretionary DSC”: Court Costs + fine (fine may not exceed maximum fine for the offense)</p> <p>Time payment reimbursement fee must be assessed if any amount owed is paid more than 30 days after the order to pay (but only one fee may be assessed per case)</p>
Texas DL required?	No	Yes, unless active duty U.S. service member or dependent
Proof of Insurance required?	No	Yes

Expunction Chart

Record Type	Procedure & Requirements	Fee	Authorizing Statute
Dismissals/ Acquittals (Defendant under 17)	<p>The case has been dismissed or the defendant was acquitted, and the defendant was under 17 years of age at the time of the offense.</p> <p>Applicant files sworn application in writing with the court in which the offense was pending.</p>	\$30	Art. 45.0216(h), Code of Criminal Procedure
Arrest Records Related to ABC Offense	<p>The defendant is now 21 years of age and has only one arrest for an offense under Ch. 106, ABC. <i>Noncustodial arrests (citations) count as arrests.</i></p> <p>Applicant files sworn application with the court where they were charged with the offense.</p>	\$30	Sec. 106.12, Alcoholic Beverage Code
Convictions of ABC Offense	<p>The defendant is now 21 years of age and has only one conviction under Ch. 106, ABC. Deferrals or juvenile court adjudications do not count as convictions.</p> <p>Applicant files sworn application with the convicting court.</p>	\$30	Sec. 106.12, Alcoholic Beverage Code
Off-Premises Alcohol Consumption (ABC § 101.72)	<p>A defendant who has had only one conviction within 12 months may apply after the first anniversary of the conviction to the convicting court to have the conviction expunged.</p>	\$0	Sect. 101.73, Alcoholic Beverage Code
Convictions of Fine-Only Misdemeanor (Defendant under 17)	<p>The defendant had only one conviction of a fine-only misdemeanor before their 17th birthday (other than ABC or tobacco offenses) and is now 17.</p> <p>Applicant files with the convicting court. Application must be sworn and written.</p>	\$30	Art. 45.0216(b), Code of Criminal Procedure
Convictions of Tobacco- Related Offense	<p>The defendant applies to the convicting court to have the conviction expunged on or after their 21st birthday.</p>	\$30	Sec. 161.255, Health & Safety Code

Expunction Chart

<p>Conviction of “sexting” offense</p>	<p>The defendant has only one conviction of an offense under Penal Code Sec. 43.261, was never adjudicated by a juvenile court as having engaged in the same conduct, and is now 17.</p> <p>Applicant files sworn, written application with the convicting court.</p>	<p>\$30</p>	<p>Art. 45.0216(b), (f), Code of Criminal Procedure</p>
<p>Arrest Records Related to Fine-Only Misdemeanors Not Resulting in Conviction or Acquittal (Adult defendants)</p>	<ul style="list-style-type: none"> • Offense is no longer pending, did not result in conviction, no other charges resulting from the arrest are pending, and at least 180 days has elapsed since arrest; • Prosecutor recommends expunction before trial of offense; or • Defendant convicted is subsequently acquitted by court of appeals or court of criminal appeals or pardoned. <p>Applicant files petition described by Art. 55.02, Sec. 2(b) with any court in the county in which the defendant was arrested or in which the offense was alleged to occur.</p>	<p>\$100*</p>	<p>Arts. 55.01, 55.02, 102.006, Code of Criminal Procedure</p>
<p>Arrest Records Related to Acquittals (Adult defendants)</p>	<p>Trial court must notify defendant of right to expunction upon acquittal. Defendant or prosecutor can make request. Defendant’s attorney prepares expunction order, if defendant is pro se, prosecutor does.</p> <p>Request can be made with trial court or petition described by Art. 55.02, Sec. 2(b) with any court in the county in which the defendant was arrested or in which the offense was alleged to occur.</p>	<p>\$0^</p>	<p>Arts. 55.01, 55.02, 102.006, Code of Criminal Procedure</p>

* Court may return all or a portion of this fee to the applicant.

^ Fee is only waived if petition is filed within 30 days of acquittal. If not, fee is \$100, though the court may return all or a portion of this fee to the applicant.

Parks & Wildlife Offense Dismissal Chart

Offense	Conditions of Dismissal	Reimbursement Fee
<p>Operating or Giving Permission to Operate a Vessel Without a Valid Certificate of Number. P&WC 31.021, 31.127</p>	<p>Defendant remedies the defect by the 10th working day after the date of the offense. Certificate must not have been expired for more than 60 days.</p>	<p>Not to exceed \$10</p>
<p>Failing to Have Photo ID and identification card and either:</p> <ul style="list-style-type: none"> • a boater identification card issued by the department; or • proof of completion of the requirements to obtain a vessel operator's license issued by the United States Coast Guard. <p>P&WC 31.109</p>	<p>Defendant produces document that was valid at the time of the offense; or</p> <p>Defendant requests orally or in writing, not later than the 10th day after the date of the alleged offense, permission to take a boater education course. The court shall defer proceedings and allow the person 90 days to present written evidence that the person has successfully completed the course.</p>	<p>No fee</p>
<p>Failing to Display Required Hunting License. P&WC 42.024</p>	<p>Defendant produces on or before trial a document that was valid at the time of the offense.</p>	<p>No fee</p>
<p>Fails or Refuses to Show Fishing License or Tag on Request. P&WC 46.015</p>	<p>Defendant produces for the court or the prosecuting attorney a document that was valid at the time of the offense.</p>	<p>No fee</p>

Parks & Wildlife Offense Dismissal Chart

<p>Failing to Possess the Required Hunter's Education Certificate. P&WC 62.014</p>	<p>Defendant requests orally or in writing, not later than the 10th day after the date of the alleged offense, permission to take a hunter safety training course. The court shall defer proceedings and allow the person 90 days to present written evidence that the person has successfully completed the course.</p> <p>NOTE: Presenting a document that was valid at the time of the offense is a defense to prosecution, but does not allow the court to dismiss on its own motion; but the court may dismiss on a motion from the prosecutor.</p>	<p>No fee</p>
<p>Fails or Refuses to Show Proper Trapping License. P&WC 71.011</p>	<p>Defendant produces on or before trial a proper license that was issued to the person and valid at the time of the offense.</p>	<p>No fee</p>

COMPLIANCE DISMISSALS

Offense	Conditions of the Dismissal	Reimbursement Fee
<p>Failure to Maintain Financial Responsibility (FMFR) (No Insurance)</p> <p>TC 601.191</p>	<p>Defendant shows insurance policy valid at the time of the offense. TC 601.193</p>	<p>None</p>
<p>Operation of Motor Vehicle with Expired License Plate</p> <p>TC 502.407</p>	<p>Defendant remedies no later than 20 working days after offense or by appearance date, whichever is later <i>and</i> pays to DMV the delinquent registration fee required by TC 502.045.</p>	<p>Not to exceed \$20</p>
<p>Operation of Vehicle Without Registration Insignia (No Registration Sticker)</p> <p>TC 502.473</p>	<p>Defendant remedies the defect by the defendant's first court appearance date or shows that a registration insignia was issued for that time period and the insignia has been attached to the vehicle.</p>	<p>Not to exceed \$10</p>
<p>Wrong Registration Insignia (due to Wrong Registration Period)</p> <p>TC 502.475(a)(3)</p>	<p>Defendant remedies the defect before the defendant's first court appearance.</p>	<p>Not to exceed \$10</p>
<p>Operation of Vehicle Without License Plate (Includes Improper Placement, and Failure to Display Two Plates)</p> <p>TC 504.943</p>	<p>Defendant remedies the defect before the defendant's first court appearance.</p>	<p>Not to exceed \$10</p>
<p>Wrong, Fictitious, Altered, or Obscured License Plate</p> <p>TC 504.945</p>	<p>Defendant remedies the defect before the defendant's first court appearance and shows that the vehicle was issued a plate by the department that was attached to the vehicle, establishing that the vehicle was registered for the period during which the offense was committed.</p>	<p>Not to exceed \$10</p>

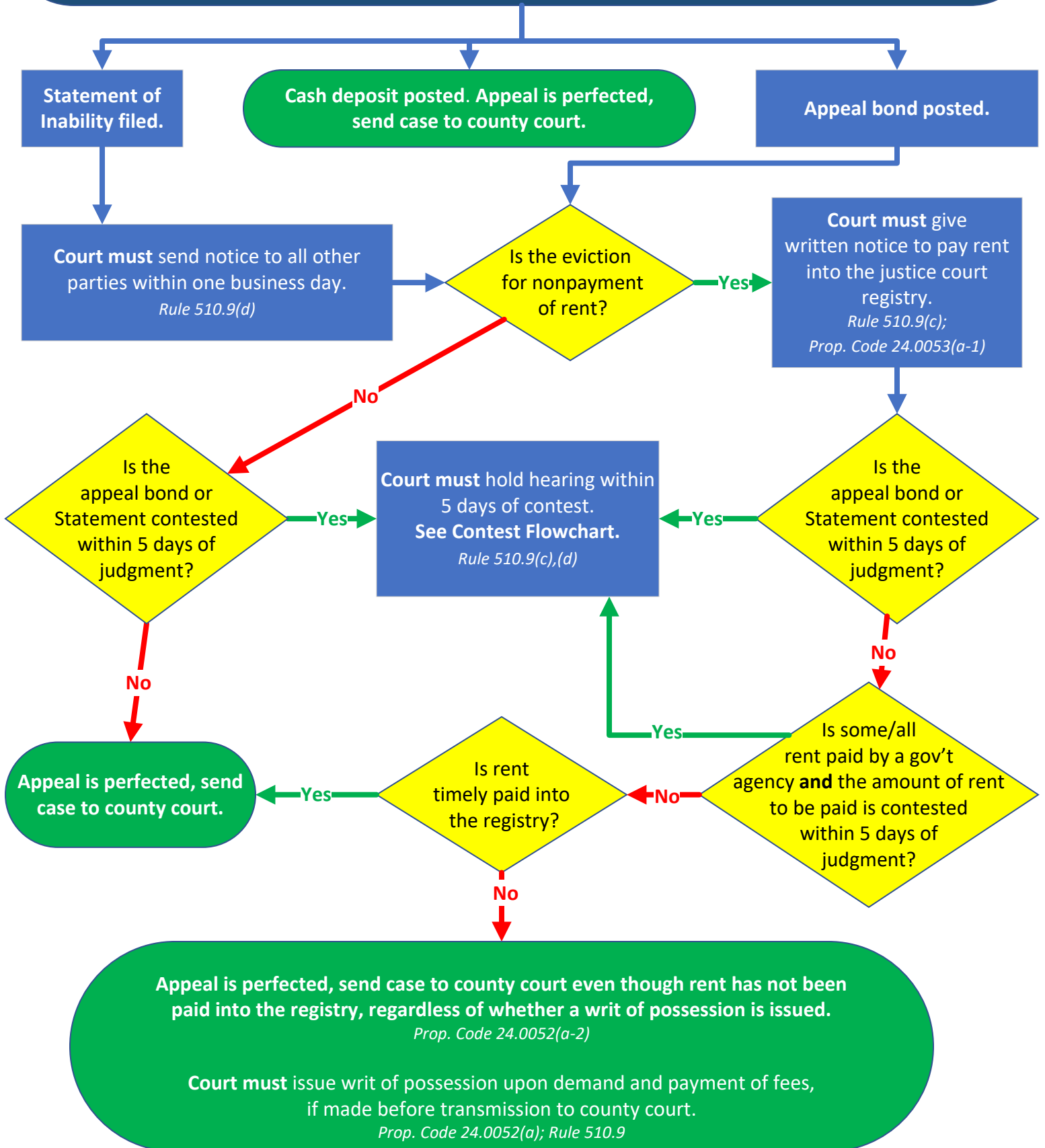
COMPLIANCE DISMISSALS

Offense	Conditions of the Dismissal	Reimbursement Fee
<p>Failure to Carry and Exhibit Driver's License on Demand TC 521.025</p>	<p>Defendant produces in court a driver's license issued to that person, appropriate for the type of vehicle operated, and valid at the time of the arrest for the offense.</p>	<p>Not to exceed \$10</p>
<p>Driving with an Expired Driver's License TC 521.026</p>	<p>Defendant remedies within 20 working days after the offense or before the appearance date, whichever is later.</p>	<p>Not to exceed \$20</p>
<p>Failure to Change Name or Address on Driver's License TC 521.054</p>	<p>Defendant remedies the defect not later than the 20th working day after the date of the offense.</p>	<p>Not to exceed \$20 <i>(court may waive in the interest of justice)</i></p>
<p>Violation of Restrictions on Driver's License TC 521.221</p>	<p>Court may dismiss if: (1) the restriction was imposed due to a physical condition that was surgically or medically corrected before the date of the offense; or the restriction was imposed in error and that fact is established by defendant; <i>and</i> (2) the department removes the restriction or endorsement by the defendant's first court appearance.</p>	<p>Not to exceed \$10</p>
<p>Operating a vehicle (or an owner permitting another to operate a vehicle) that is unsafe or violates equipment standards and requirements or is illegally equipped. TC 547.004</p>	<p>Defendant remedies the defect before the defendant's first court appearance.</p>	<p>Not to exceed \$10</p>

Eviction Appeal Procedure Flowchart

Judge determines amount of appeal bond or cash deposit as provided in Rules 510.9 and 510.11 (appeal bond and rent amounts **must be included in judgment** in a residential eviction for nonpayment of rent). Appeal **must** be filed by 5th day after judgment (see Rules 510.2 and 500.5) and a filing fee must be paid to the justice court unless it is waived due to the filing of a Statement of Inability.

Rules 510.9 & 510.11; Prop. Code 24.00511(a)



Eviction Contest Procedure Flowchart

Hearing must be held within 5 days of contest.
Prop. Code 24.00512(c); 24.0052(d); 24.0053(c)

Party contests the amount of rent paid by the tenant into the registry, and rent is paid in whole or in part by a governmental agency.

If the tenant objects to the justice court's ruling at the hearing, **the tenant is required to pay only the portion claimed to be owed by the tenant** until the issue is tried in county court.
Rule 510.9(c); Prop. Code 24.0053(c),(d)

If appeal bond is **approved**, appeal is perfected, send case to county court.

If appeal bond **disapproved**, party may post cash deposit or Statement of Inability or appeal the disapproval to county court within **5 days**.
Prop. Code 24.00512(g)

If **nothing timely filed**, appeal is **not perfected**, writ should be issued by the justice court upon demand and payment of fees.
Prop. Code 24.00512(e)

If county court **disapproves bond**, party has 5 days to file cash deposit or Statement. Go to box at top of Appeal Flowchart if filed. If not, justice court must issue writ upon demand and payment.
Prop. Code 24.00512(g)

Party contests an appeal bond.

Has TDI approved the surety to do business in Texas?

No
 Court determines if amount and form of bond are sufficient and if surety has sufficient non-exempt assets
Prop. Code 24.00512

Yes
Must dismiss the contest.
Prop. Code 24.00512(a); Rule 502.3(d)

If county court **approves bond or Statement**, send entire case up.

Party contests a Statement of Inability.

Is a legal aid provider certificate filed with the Statement?

No
 Court determines if appellant can afford appeal bond or cash deposit. If no, must enter a written order detailing reasons.
Rule 502.3(d)

If Statement is **approved**, appeal is perfected, send case to county court.

If Statement **disapproved**, party may appeal the disapproval to county court within 5 days or post cash deposit or appeal bond by the next day after the five day period expires.
Rule 510.9

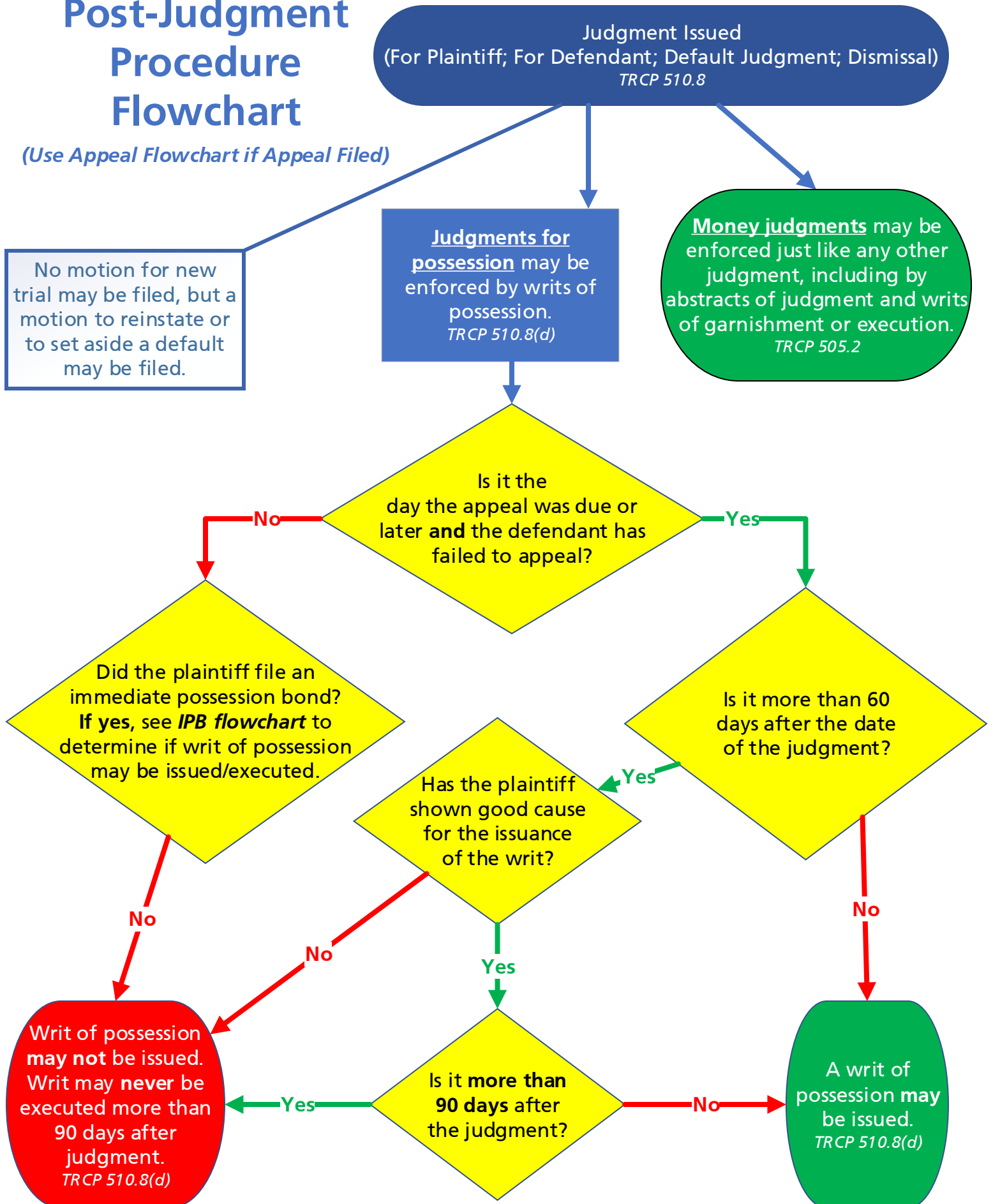
If cash deposit **timely filed**, appeal is perfected, send case to county court.
Prop. Code 24.00512(e)

If county court **disapproves Statement**, party has 1 business day to file cash deposit or appeal bond. Go to box at top of Appeal Flowchart if filed. If not, justice court must issue writ upon demand and payment.
Rule 510.9(c)

If Statement or appeal bond **timely filed**, go to applicable box at top of Appeal Flowchart.

Eviction Post-Judgment Procedure Flowchart

(Use Appeal Flowchart if Appeal Filed)



Eviction Procedure Through Judgment Flowchart

Sworn petition filed with the court, with filing fee or Statement of Inability. May join claim for back rent if within court's jurisdictional limit. No counterclaims may be filed.

TRCP 510.3

Citation immediately issued, containing the date for trial, which must be **no less than 10 days and no more than 21 days from the date the petition was filed.**

TRCP 510.4(a)

Request for alternative service made.
TRCP 510.4(c)(1)

Citation served either by personal service or delivery to person at least 16 years old at the defendant's residence.
TRCP 510.4(b)

Must be a jury trial if party requests in writing at least 3 days before trial and pays \$22 jury fee or files Statement of Inability.
TRCP 510.4(a)(12)

If at least two attempts of service have been made at all addresses in the county, court grants alternative service, which must include both posting the citation and mailing it to the premises.
TRCP 510.4(c)(2)(3)

Return of service filed at least the day before trial. Trial held no less than six days after service. If plaintiff doesn't appear, may postpone or dismiss.
TRCP 510.4, 510.6

Postponements may be granted for good cause, but a postponement may not be for more than 7 days unless all parties agree in writing.
TRCP 510.7(c)

Court must take sworn petition as true and render default if petition contains all elements. Judgment must include appeal bond and monthly rent amounts if case is residential eviction for nonpayment of rent.
TRCP 510.6(b)

Does defendant file an answer or appear at trial?

No

Yes

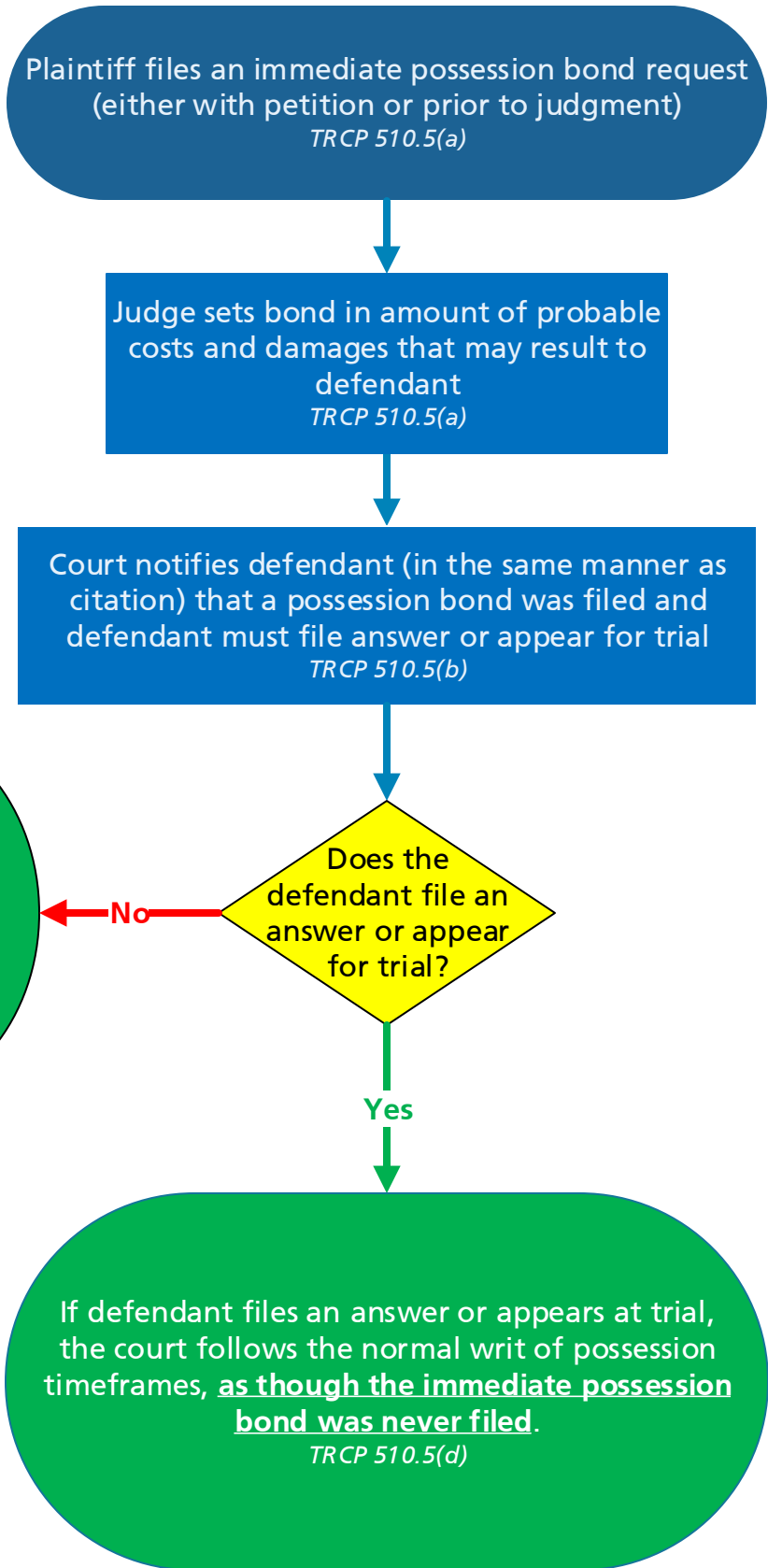
If any elements are missing, plaintiff can offer testimony and evidence at the hearing in order to prove their case. Cannot add information that would serve as an unfair surprise. Judgment for defendant if plaintiff can't prove case.

Court hears all evidence and renders the appropriate judgment, including appeal bond and monthly rent amounts if case is residential eviction for nonpayment of rent

Plaintiff must provide defendant's last known address and SCRA affidavit.

Court must immediately mail notice of default judgment to defendant's address.
TRCP 510.6(c)

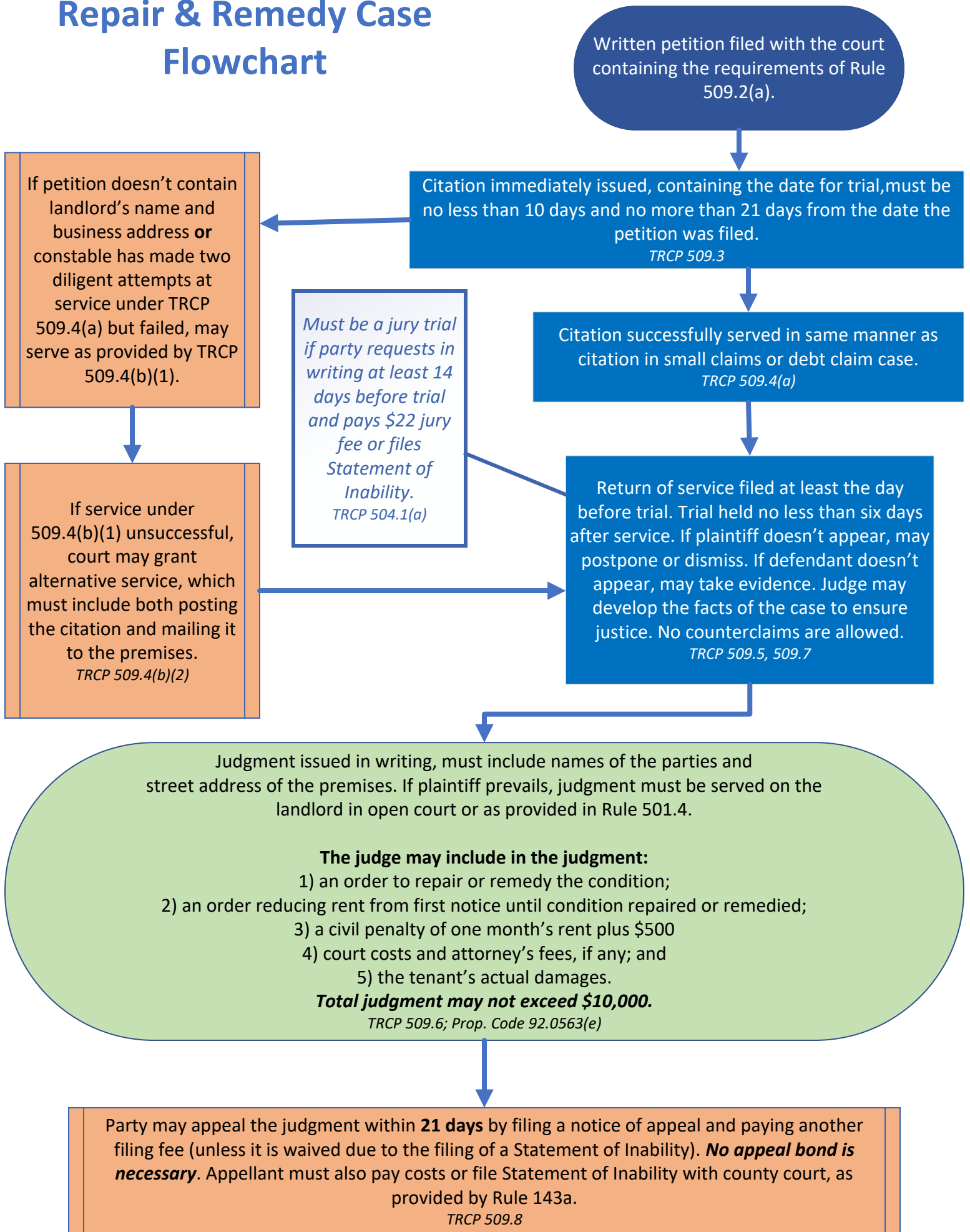
Immediate Possession Bond Flowchart



Notice to Vacate Chart

Type of Tenancy	Time Period
Tenancy for a Fixed Term	3 days' written notice unless lease provides otherwise Prop Code 24.005(a)
Tenancy at Will <i>without Rental Payment</i> (no fixed term, such as boyfriend/girlfriend or parent/adult child)	3 days' written notice Prop Code 24.005(b)
Tenancy at Will <i>with Fixed Rental Payments</i> (such as month-to-month agreements)	3 days' written notice unless lease specifies otherwise. If no breach of lease, must first give termination notice of at least one rental period unless lease specifies otherwise Prop Code 24.005(b); 91.001
Tenancy by Sufferance (such as an owner who was foreclosed upon)	3 days' written notice Prop Code 24.005(b)
Residential Tenant of an Owner Who Was Foreclosed Upon	<i>If requirements of bona fide tenant met</i> (see Evictions Deskbook Chapter 3 for details), tenant can finish lease unless purchaser will live in property as primary residence, in which case 90 days' written notice Permanently Protecting Tenants at Foreclosure Act of 2018, 12 U.S.C. 5201
Commercial Tenant of an Owner Who Was Foreclosed Upon	30 days' written notice Prop Code 24.005(b)
Squatter (person who entered without legal authority or by force)	Immediate notice, which can be oral Prop Code 24.005(d)
Tenant of a Squatter	3 days' written notice Prop Code 24.005(c)

Repair & Remedy Case Flowchart



Repair Rights and Remedies: Differences Between Manufactured Home Tenancies (Ch. 94) and Other Residential Tenancies (Ch. 92)

Right, Duty, or Remedy Provision	Applicable Law
A <i>manufactured home community</i> landlord has additional maintenance obligations related to the manufactured home community.	Prop. Code § 94.152
A written lease may require the tenant’s initial notice of a condition to be repaired to be in writing in a <i>residential tenancy</i> only.	Prop. Code § 92.052(d) Prop. Code § 94.153
Landlord has no obligation to repair a condition in or on the tenant’s <i>manufactured home</i> .	Prop. Code § 94.153(a)
Landlord has no obligation under a <i>manufactured home tenancy</i> to provide water of at least 120 degrees.	Prop. Code § 92.052(a) Prop. Code § 94.153(b)
Option to close premises for demolition or non-residential purpose only applies to <i>residential tenancies</i> .	Prop. Code § 92.055
The subsequent written notice of a condition must be delivered by certified mail, return receipt requested, or registered mail in a <i>manufactured home tenancy</i> , but may also be delivered by any other trackable mail or delivery service in a <i>residential tenancy</i> .	Prop. Code § 92.056(b)(3) Prop. Code § 94.156(b)(3)
Only <i>residential leases</i> must contain language that informs the tenant of the remedies.	Prop. Code § 92.056(g)
A landlord’s affidavit of delay may be delivered by personal delivery or certified mail with return receipt. Additionally, if authorized in a written lease, in a <i>residential tenancy</i> the landlord may leave it in a conspicuous place in the dwelling; or in a <i>manufactured home tenancy</i> , may leave the notice securely fixed on the outside of the main entry door of the manufactured home.	Prop. Code § 92.0562(e)(3) Prop. Code § 94.158(e)(3)
<p><i>Ch. 92</i> cases are filed as Repair and Remedy Cases under Rule 509, are limited to \$10,000 in damages, and judge may order repairs to be made.</p> <p><i>Ch. 94</i> cases are filed as small claims cases, cap is \$20,000 if filed on/after 9/1/20, and judge may not order repairs.</p>	Prop. Code § 92.0563 Prop. Code § 94.159 Rule 509.1, TRCP

Writ of Re-Entry Flowchart

Applicant files sworn written application in precinct where property is located, pays the civil filing fee or files Statement of Inability (or judge defers payment of costs), and orally states the facts of the case under oath to the judge.
Prop Code 92.009(b)

If judge finds that an unlawful lockout has occurred, ex parte writ of re-entry for immediate and temporary possession shall be issued.
Prop Code 92.009(c)

Writ must be served on landlord/mgmt co. in same manner as writ of possession. Unless the judge has deferred costs or Statement of Inability was filed, service fee must be paid (same as service of writ of possession).
Prop Code 92.009(d)

Hearing must be held at least 1 and no more than 7 days after request.
Prop Code 92.009(e)

Does landlord request a hearing before the 8th day after service?

Yes

No

A judgment for court costs may be entered against the landlord.
Prop Code 92.009(f)

Writ remains in place. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Was the writ properly issued?

Yes

No

Court dissolves the writ. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.009(g)

Has the landlord complied with the writ?

Yes

Close case.

No

Has a writ of possession issued or was there an appeal under Sec. 92.009(g)?

No

Court issues a show cause notice upon filing of an affidavit. Service fee in amount of citation service fee assessed unless deferred or Statement of Inability filed.
Prop Code 92.009(i)

Did landlord disobey writ?

No

Yes

Landlord may be committed to jail without bail until the order is obeyed.
Prop Code 92.009(i)

Is landlord still disobeying writ?

Yes

No

The writ of re-entry may not be enforced.
Prop Code 92.009(g), (h)

May hold in contempt under Gov't Code 21.002 (up to 3 days in jail and/or up to \$100 fine).
Prop Code 92.009(i)

Writ of Restoration Flowchart

Applicant files sworn written application in precinct where property is located, pays the civil filing fee or files Statement of Inability (or judge defers payment of costs), and orally states the facts of the case under oath to the judge.
Prop Code 92.0091(b)

If judge finds that an unlawful lockout has occurred, ex parte writ for immediate and temporary restoration shall be issued.
Prop Code 92.0091(c)

Writ must be served on landlord/mgmt co. in same manner as writ of possession. Unless the judge has deferred costs or Statement of Inability was filed, service fee must be paid (same as service of writ of possession).
Prop Code 92.0091(d)

Hearing must be held at least 1 and no more than 7 days after request.
Prop Code 92.0091(e)

Does landlord request a hearing before the 8th day after service?

Yes

No

A judgment for court costs may be entered against the landlord.
Prop Code 92.0091(f)

Writ remains in place. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.0091(g)

Was the writ properly issued?

Yes

No

Court dissolves the writ. Ruling may be appealed in same manner as eviction appeal.
Prop Code 92.0091(g)

Has the landlord complied with the writ?

Yes

Close case.

No

Has a writ of possession issued or was there an appeal under Sec. 92.0091(g)?

No

Court issues a show cause notice upon filing of an affidavit. Service fee in amount of citation service fee assessed unless deferred or Statement of Inability filed.
Prop Code 92.0091(i)

Did landlord disobey writ?

No

Yes

Landlord may be committed to jail without bail until the order is obeyed.
Prop Code 92.0091(i)

Yes

Is landlord still disobeying writ?

No

The writ of re-entry may not be enforced.
Prop Code 92.0091(g), (h)

May hold in contempt under Gov't Code 21.002 (up to 3 days in jail and/or up to \$100 fine).
Prop Code 92.0091(i)

Writ of Retrieval Flowchart

Application filed with filing fee or
Statement of Inability.

Application must:

- Certify that applicant is excluded from the premises by occupant;
- Certify applicant is not subject to an order preventing them from entering premises;
- Allege that applicant or dependents require personal items that are in the premises;
- Describe the specific items to be recovered;
- Certify that the property being sought is not subject to a divorce or annulment case/decreed/order;
- Allege personal harm to applicant or dependent if the property is not recovered promptly; **and**
- Include a lease or other evidence that applicant is/was authorized to use the premises as residence.

Property Code 24A.002(b)

24A.002(b)(4) Categories:

- Wireless Communication Devices
- Medical Records; Medicine and Medical Supplies
- Assistance or Service Animals
- Clothing; Child Care Items
- Legal or Financial Documents (Including Electronic Copies)
- Checks or Debit/Credit Cards in Applicant's Name
- Employment Records; Tools of the Applicant's Trade or Profession
- Personal ID Documents

Does application have
all requirements & are all items
sought within the categories
spelled out in Property Code
24A.002(b)(4)?

Yes

No

**Application for
Writ of Retrieval
must be denied.**

Does
occupant pose
clear/present danger of
family violence to applicant/
dependent and immediate
irreparable harm if
application not
granted?

No

Yes

Must require applicant to post bond payable to occupant. Bond must have one surety if authorized corporate surety, otherwise two sureties (may set low bond amount).
Property Code 24A.002(c)

Hearing **must** be held with "sufficient notice" to occupant to verify application is correct. If so, writ of retrieval issued.
Property Code 24A.002(e)

Temporary ex parte writ of retrieval issued, **must** state period of validity, 5 days or less. No bond required. **May** recess to notify occupant, but must reconvene by 5 PM.
Property Code 24A.0021(c)

Constable, sheriff, or their deputy accompanies applicant to premises to retrieve specifically-described property. Occupant **must** be given a copy of the writ and an inventory of property retrieved. Officer **must** file inventory with court.
Property Code 24A.003

The occupant may file a complaint in the court that issued the writ, within **10 days** of the retrieval, alleging that the applicant took property belonging to the occupant or their dependent. The court **must** promptly hold a hearing and rule on the disposition of the disputed property.

Property Code 24A.006.

TJCTC FEES & COSTS CHEAT SHEET

In addition to any fine amount set and assessed by the court, the court shall assess the following amounts upon conviction or placement on deferred disposition or Driving Safety Course for **any offense occurring on or after January 1, 2020**.

Rules of the Road offense (other than parking/pedestrian): \$129



Parking/Pedestrian Rules of the Road offense: \$67



Parking/Pedestrian Non-Rules of the Road offense: \$14








Parent Contributing to Non-Attendance (Ed. Code 25.093): \$96



Other Fine-Only Misdemeanors: \$76



-  ➤ State Consolidated Court Cost (\$62) – LGC 133.102(a)(3)
-  ➤ Local Consolidated Court Cost (\$14) – LGC 134.103(a)
-  ➤ State Traffic Fine (\$50) – TC 542.4031
-  ➤ Local Traffic Fine (\$3) – TC 542.403
-  ➤ Child Safety Fund Fine (\$20) – CCP 102.014(d)

What are Rules of the Road offenses?

Offenses found in Title 7, Subtitle C of the Transportation Code (Chapter 541-600)

In addition to the amounts on the above chart, courts shall assess the following fees & costs:

TJCTC FEES & COSTS CHEAT SHEET

- **\$5 Arrest Reimbursement Fee (CCP 102.011(a))** – assessed against defendant on conviction/deferral if peace officer made a warrantless arrest or issued a notice to appear (ticket/citation).
- **\$50 Warrant Reimbursement Fee (CCP 102.011(a))** – assessed against defendant on conviction/deferral if law enforcement agency processed or executed an arrest warrant.
- **\$2 Transaction Fee (CCP 102.072)** – assessed against a defendant on each transaction relating to collection of amounts assessed by the court. *Only assessed if the commissioners court has approved the fee.*
- **\$25 Child Safety Fund Fine (CCP 102.014)** – assessed against a defendant on conviction/deferral for Passing a School Bus (TC 545.066) or for any Rules of the Road offense occurring in a school zone. *This fine is only assessed in a municipality.*

OTHER FEES AND COSTS NOTES

- Special expense fees assessed on deferred disposition, fees assessed on compliance dismissals, and the administrative fee on discretionary DSC are considered “fines” effective Jan. 1, 2020, regardless of the offense date. The administrative fee on mandatory DSC is now termed as a “reimbursement fee.”
- The Omni reimbursement fee is \$10, effective Jan. 1, 2020.
- Effective Jan. 1, 2020, the Time Payment Reimbursement Fee is \$15, and is entirely retained by the county. The time payment reimbursement fee applies not only to convictions, but also to any DSC or deferred disposition orders signed on or after Sept. 1, 2021, if the defendant pays any amount due more than 30 days after the order to pay. Note, however that only one time payment reimbursement fee may be assessed per case.
- There is no longer a separate Juvenile Case Manager Fee. Instead, on offenses committed after Jan. 1, 2020, \$5 of the \$14 Local Consolidated Court Cost will go into the local truancy prevention and diversion fund, which can be used by counties to fund salaries, expenses, benefits, training, etc. of juvenile case managers.
- Effective **September 1, 2019**, the Justice Court Technology Fund can be used to pay salaries and benefits for court personnel, as well as training expense for judges and court personnel, even if the training is not technology related.
- Effective January 1, 2020, courts may no longer collect the \$30 “hot check fee” authorized by Business & Commerce Code 3.506.
- For offenses committed on or after January 1, 2020, the additional \$3 fee assessed when the defendant is convicted by a jury is no longer assessed.

TJCTC FEES & COSTS CHEAT SHEET

What about offenses that occur before Sept. 1, 2019?

In justice court, costs that are *assessed on conviction* are based on the date of the *offense*, rather than the date of the *conviction*. Therefore, if the offense date is before Sept. 1, 2019, you would assess the costs that are currently in effect, regardless of when the conviction actually occurs.

What about offenses that occur on or after Sept. 1, 2019, but before Jan. 1, 2020?

The only change for these offenses compared to current costs is that the State Traffic Fine will increase from \$30 to \$50 (and the \$3 Local Traffic Cost will be a fine rather than a cost). The comptroller will be instructing courts to “hold” any of the STF collections they receive in September (at the new \$50 amount, with reduced 4% service fee) until they have the quarterly form revised and available for the 4th quarter reporting, where they’ll actually have 4 months of the new collection (Sept-Dec) instead of the usual three months.

What version of the Omni Reimbursement Fee or Time Payment Reimbursement Fee do we assess?

Omni Reimbursement Fees and Time Payment Reimbursement Fees are not assessed on conviction, rather they are assessed when the “triggering event” occurs. The court applies the law that is in effect when the triggering event occurs. So you apply the new Omni Reimbursement Fee (\$10) and Time Payment Reimbursement Fee (\$15) anytime those fees are assessed on or after Jan. 1, 2020, regardless of when the offense occurred or the conviction or deferral occurred.

Do the State Traffic Fine and Local Traffic Fine count against the maximum fine for the offense?

The State Traffic Fine will change to \$50 on offenses occurring after September 1, 2019. This fine is in addition to the fine that the court imposes on the offense, so it would not count toward the maximum fine for the offense. The \$3 Local Traffic Fine also does not count against the maximum fine allowed for the offense. **NOTE** – the State Traffic Fine is often included in court costs since the court has no discretion in the amount assessed, but it is treated as a fine.

Is the \$20 Child Safety Fine split with the school district?

No. Only fines assessed under Ed. Code 25.093 are split. The \$20 Child Safety Fund Fine is assessed under CCP 102.014.

Why does the difference between court costs and fines matter?

There are two significant differences in how your courts handle court costs vs. fines

- 1) If the defendant makes partial payments, the payments are first credited against court costs (including reimbursement fees) until the costs are completely paid off. If the payment isn’t enough to pay all of the costs, the payment is applied to each cost on a prorated basis. Once the costs are paid, if a payment is made that doesn’t cover all of the fines, the payment is applied to each fine on a prorated basis.
- 2) If a defendant is unable to pay a fine, they must do community service to satisfy the fine unless community service is an undue hardship. If the defendant is unable to pay costs, the court can waive costs, even if community service would not be an undue hardship.

Civil Filing Fees and Costs Cheat Sheet Eff. 1/1/22

Small Claims Case	\$54
Debt Claim Case	\$54
Eviction Case	\$54
Repair & Remedy Case	\$54
Truant Conduct Case	No fee
Tow Hearing	\$54
Toll Hearing	\$54
ODL Application	\$54
Nondisclosure Order	\$54 <i>(some that are not filed in justice court are different)</i>
Writ of Sequestration	No fee
Writ of Attachment	No fee
Writ of Execution	\$5 per page writ fee
Writ of Garnishment (pre-judgment)	No fee
Writ of Garnishment (post-judgment)	\$54 + \$5 per page writ fee
Writ of Re-Entry	\$54
Writ of Restoration	\$54
Writ of Retrieval	\$54
Writ of Possession	\$5 per page writ fee
Motion for New Trial	\$54 <i>(if case type doesn't require a filing fee, this fee is not assessed on motion for new trial either)</i>
Motion to Set Aside Default	No fee
Motion to Reinstate	No fee
Other Misc. Motions	No fee
Appeal	\$54 <i>(if case type doesn't require a filing fee, this fee is not assessed on appeal either)</i>
Transcript Fee	\$10
Abstract of Judgment	\$5

**All fees waived upon filing of Statement of Inability, unless Statement is contested and denied at a hearing.*

**Filing fees do not include service fees for citations or writs, which vary by county.*

**Fees assessed on initial suit, as well as on counterclaim, cross-claim, third-party action, intervenor action, or interpleader.*

**\$54 fee is made up of \$33 Local Consolidated Civil Fee and \$21 State Consolidated Civil Fee, see Fines, Fees, & Costs Deskbook for details.*

Civil Filing Fees FAQ

- Is a fee charged for a motion for new trial even if the motion is denied? Yes.
- Does the person who is appealing have to file an appeal bond or cash deposit in addition to the filing fee? **Yes, presuming they didn't** file a Statement of Inability.
- When is the \$5 per page writ fee assessed? On any post-judgment writs, such as execution or garnishment.
- What if the case was filed before January 1, 2022, but a motion for new trial or appeal is filed after January 1, 2022? The court would assess the new filing fee on the motion for new trial. Anything filed after that date follows the new law, regardless of when the case is originally filed.
- What if a filing is postmarked before January 1, 2022, but received after that date? Under the mailbox rule, it would be considered filed on the postmark date, so the law effective before January 1 should be applied.
- Is the \$22 jury fee still in effect? Yes. The jury fee was changed in county/district courts, but not in justice courts.

Consequences for Alcohol-Related Offenses Committed by Minors (Under 21 Years Old) Chapter 106, Alcoholic Beverage Code (ABC)

OFFENSE	FIRST CONVICTION	SECOND CONVICTION	THIRD OR SUBSEQUENT CONVICTION
Purchase of Alcohol by Minor § 106.02, ABC	<u>§ 106.071, ABC:</u>	<u>§ 106.071, ABC:</u>	<u>§ 106.071, ABC:</u>
Attempt to Purchase Alcohol by Minor § 106.025, ABC	<ul style="list-style-type: none"> Fine: \$1 - \$500 (Class C Misdemeanor) Alcohol/drug awareness program pursuant to § 106.115, ABC 	<ul style="list-style-type: none"> Fine: \$1 - \$500 (Class C Misdemeanor) Optional for Court: Alcohol/drug awareness program pursuant to § 106.115, ABC 	<ul style="list-style-type: none"> Court only has jurisdiction if defendant is under age 17 Fine: \$1 - \$500 (Class C Misdemeanor) Optional for Court: Alcohol/drug awareness program pursuant to § 106.115, ABC
Consumption of Alcohol by Minor § 106.04, ABC	<ul style="list-style-type: none"> Community service: 8-12 hours 	<ul style="list-style-type: none"> Community service: 20-40 hours 	<ul style="list-style-type: none"> Suspend or deny issuance of license/permit for 180 days (Order to DPS; takes effect on the 11th day after conviction)
Possession of Alcohol by Minor §106.05, ABC	<ul style="list-style-type: none"> Suspend or deny issuance of license/permit for 30 days (Order to DPS; takes effect on the 11th day after conviction) 	<ul style="list-style-type: none"> Suspend or deny issuance of license/permit for 60 days (Order to DPS; takes effect on the 11th day after conviction) 	
Misrepresentation of Age by Minor § 106.07, ABC			NOT eligible for deferred disposition if offense is Consumption of Alcohol (§ 106.04, ABC)
Public Intoxication by Minor § 49.02, Penal Code			
DUI by Minor § 106.041, ABC	<u>§ 106.041, ABC:</u> <ul style="list-style-type: none"> Fine: \$1-\$500 (Class C Misdemeanor) Alcohol/drug awareness program pursuant to § 106.115, ABC Community service: 20-40 hours (License automatically suspended upon arrest by DPS – Court does not order) 	<u>§ 106.041, ABC:</u> <ul style="list-style-type: none"> Fine: \$1-\$500 (Class C Misdemeanor) Optional for court: Alcohol/drug awareness program pursuant to § 106.115, ABC Community service: 40-60 hours (License automatically suspended upon arrest by DPS – court does not order) 	<u>§ 106.041, ABC:</u> <ul style="list-style-type: none"> Court only has jurisdiction if defendant is under age 17 Fine: \$1 - \$500 (Class C Misdemeanor) Optional for Court: Alcohol/drug awareness program pursuant to § 106.115, ABC Community service: 40-60 hours (License automatically suspended upon arrest by DPS – court does not order) NOT eligible for deferred disposition

NOTE: For the purpose of counting the number of convictions to determine which column applies, the following are considered “convictions:”

-A prior adjudication in juvenile court under Title 3, Family Code, that a minor engaged in this conduct.

-A prior order of deferred disposition for the offense.

Except that for the purpose of determining if the alcohol/drug awareness program is mandatory or discretionary, only “actual convictions” count.

NOTE: Community service must be related to education about or prevention of misuse of alcohol/drugs, or, if programs/services providing that education are not available, the court may order community service that it considers appropriate for rehabilitative purposes. In some cases, **additional** community service may be ordered in lieu of an awareness program, pursuant to the requirements of § 106.115.



Consequences for Alcohol-Related Offenses Committed by Minors (Under 21 Years Old) Chapter 106, Alcoholic Beverage Code (ABC)

Deferred Disposition for Alcohol-Related Cases Involving Minors – § 106.071; 106.115, ABC

If a minor is placed on deferred disposition for an offense to which § 106.071, ABC, applies, the court SHALL order the minor to perform community service as set out on the chart above.

If a minor is placed on deferred disposition for an offense under § 49.02, Penal Code, or § 106.02, .025, .04, .041, .05, or .07, ABC, the court SHALL order the minor to complete an alcohol/drug awareness program as set out on the chart above.

For any case where a minor is placed on deferred disposition, any reasonable condition MAY be ordered, which could include community service and/or an alcohol/drug awareness program even when one or both of those is not required.

Result of Completing or Not Completing Alcohol/Drug Awareness Course After Final Conviction – § 106.115, ABC

If the defendant **presents the required evidence** of successful completion of the required alcohol/drug awareness program (or *extra* community service in lieu of program where allowed) within 90 days from final conviction (but the court may extend for an additional 90 days for good cause), the court **MAY** reduce the assessed fine to an amount equal to no less than 1/2 of the amount of the initial fine.

If the defendant **does not** present the required evidence within the prescribed period, the court:

- (1) **SHALL** order the Department of Public Safety to suspend/deny issuance of the defendant's driver's license/permit for up to six months; or for up to one year if the defendant has been previously convicted of an offense under one or more of the Code sections listed on the chart above. (*Note: This is in addition to any suspension as a result of conviction as described in the chart above.*)
- (2) **MAY** order the defendant or the parent, managing conservator, or guardian of the defendant to do any act or refrain from doing any act if the court determines that this will increase the likelihood that the defendant will present evidence to the court of satisfactory completion of the alcohol/drug awareness program (or the *extra* community service in lieu of the program where allowed).

Expunction of Conviction or Arrest Records – § 106.12, ABC

Conviction: Any person convicted of only one violation of any offense under Chapter 106 while a minor, on attaining the age of 21 years, may have that conviction, together with all complaints, verdicts, sentences, prosecutorial and law enforcement records, and other documents relating to the offense, expunged from their record (after paying a \$30 application fee). For purposes of expunctions, deferrals do NOT count as convictions.

Arrest Records: Any person placed under a custodial or noncustodial arrest for only one violation of any offense under Chapter 106 while a minor (and not convicted of that offense), may have the records of that arrest, including all complaints, verdicts, prosecutorial and law enforcement records, and other documents relating to the violation, expunged from their record (after paying a \$30 application fee).

Note: An offense of Public Intoxication by a Minor does not count toward the number of offenses/arrests here and can only be expunged under Art. 45.0216 or Ch. 55, Code of Criminal Procedure.

Alcohol/Drug Awareness Programs (For Alcoholic Beverage Code § 106.115 Requirement)

- DADAP: Online drug and alcohol awareness program approved by the Texas Department of Licensing and Regulation (\$50): http://www.dadaponline.com/state_approval.html
- Alive at 25 Texas: Online and in person courses on alcohol, texting, and traffic: <http://aliveat25texas.com/>
- More information and resources: <https://www.tabc.state.tx.us/education/>
- Live database to search for approved programs throughout the state (note that this link may be temporarily or permanently down): <https://www.tdlr.texas.gov/court-ordered/oep/oep.htm>

Community Service Options for Alcohol/Drug Cases or Issues

When ordering community service for an Alcoholic Beverage Code offense or a public intoxication by a minor offense, the court will have to determine if a particular community service option is “related to education about or prevention of misuse of alcohol/drugs” as required for those offenses. If such an option is not available, then for all of the alcohol offenses except DUI by a Minor, the court may instead order community service that it determines is “appropriate for rehabilitative purposes”. (ABC § 106.041, 106.071)

Even when there are no specific requirements for the type of community service that must be ordered, rehabilitative options are always a good idea when community service is ordered in any alcohol/drug case or other type of case where alcohol/drugs were clearly an issue.

Some Creative Community Service Ideas:

- Tutorial/community service/education program at the minor’s school
 - Related in some way to drug/alcohol prevention or at least the fostering of positive behaviors
 - During lunch or after school (reduces off-campus and/or unsupervised time)
- Teen Leadership program
 - 12 week class run by Juvenile Case Managers
 - Life/coping skills; Parent component
- Write letters based on hypothetical scenarios and potentially read them in open court:
 - You were killed in an alcohol/drug related accident. Write a letter to your parents and read it to them.
 - You caused an accident while using alcohol/drugs and the other driver is paralyzed. Write an apology letter to that person.
 - Your parents are killed by a drunk driver. Write a statement about how this will impact you and what you think the sentence should be for the drunk driver.
- Watch an assigned documentary or do research on an assigned topic and then write an essay regarding the dangers of misuse of alcohol and/or drugs.
- Attend an AA Open Meeting and write an essay.

Examples Where Some of the Above Ideas Have Been Implemented:

- City of Cedar Park: <http://www.cedarparktexas.gov/modules/showdocument.aspx?documentid=410>
- Community Service Project Options – Council on Alcohol and Drug Abuse (Dallas): <http://dallascouncil.org/programs/community-service-project-options/>

Additional Orders for Juveniles and Their Parents

After finding that a child has committed an offense within its jurisdiction, the justice court may enter additional orders for the juvenile and/or the parents.

CCP Article 45.057 (b),(c),(d)

Applies to offenses the juvenile is convicted of or offenses where the juvenile gets deferred disposition.

The orders need to be **reasonable** and should be **related to the offense** the juvenile committed

1. Refer the child or parent(s) to Early Youth Intervention Services (Found in Family Code 264.302). Services Include:

Crisis Family Intervention

Emergency short-term residential care for children 10 years of age or older

Family Counseling

Parent Skills Training

Advocacy Training

Mentoring

2. Require the child to attend a special program the court determines to be in the best interest of the child. Programs include:

Rehabilitation

Counseling

Self-Esteem and Leadership

Work and Job Skills Training

Interviewing and Work Preparation

Self - Improvement

Parenting

Manners

Violence Avoidance

Tutoring

Sensitivity Training

Parental Responsibility

Community Service

Restitution

Advocacy

Mentoring

3. Require the child's parent(s) do any act or refrain from doing any act the court determines will increase the likelihood that the child will comply with the order of the court and that is reasonable and necessary for the welfare of the child, including:

Attend a parenting class or parental responsibility program

Attend the child's school classes or functions

4. Order the parent of a child required to attend a program to pay up to \$100 for the costs of the program.

5. Require the child and/or parent required to attend a program, class, or function to submit proof of attendance.

Additional Orders Allowed:

Lunch detention or require the juvenile to stay on campus during lunch.

Teen leadership program or other programs run by juvenile case managers in the county.

Order parents to remove TV's, cell phone, and video games from the juvenile's room.

Restrict times the juvenile can text or access the internet.



Expunction Chart

Record Type	Procedure & Requirements	Fee	Authorizing Statute
Dismissals/ Acquittals (Defendant under 17)	<p>The case has been dismissed or the defendant was acquitted, and the defendant was under 17 years of age at the time of the offense.</p> <p>Applicant files sworn application in writing with the court in which the offense was pending.</p>	\$30	Art. 45.0216(h), Code of Criminal Procedure
Arrest Records Related to ABC Offense	<p>The defendant is now 21 years of age and has only one arrest for an offense under Ch. 106, ABC. <i>Noncustodial arrests (citations) count as arrests.</i></p> <p>Applicant files sworn application with the court where they were charged with the offense.</p>	\$30	Sec. 106.12, Alcoholic Beverage Code
Convictions of ABC Offense	<p>The defendant is now 21 years of age and has only one conviction under Ch. 106, ABC. Deferrals or juvenile court adjudications do not count as convictions.</p> <p>Applicant files sworn application with the convicting court.</p>	\$30	Sec. 106.12, Alcoholic Beverage Code
Off-Premises Alcohol Consumption (ABC § 101.72)	<p>A defendant who has had only one conviction within 12 months may apply after the first anniversary of the conviction to the convicting court to have the conviction expunged.</p>	\$0	Sect. 101.73, Alcoholic Beverage Code
Convictions of Fine-Only Misdemeanor (Defendant under 17)	<p>The defendant had only one conviction of a fine-only misdemeanor before their 17th birthday (other than ABC or tobacco offenses) and is now 17.</p> <p>Applicant files with the convicting court. Application must be sworn and written.</p>	\$30	Art. 45.0216(b), Code of Criminal Procedure
Convictions of Tobacco- Related Offense	<p>The defendant applies to the convicting court to have the conviction expunged on or after their 21st birthday.</p>	\$30	Sec. 161.255, Health & Safety Code

Expunction Chart

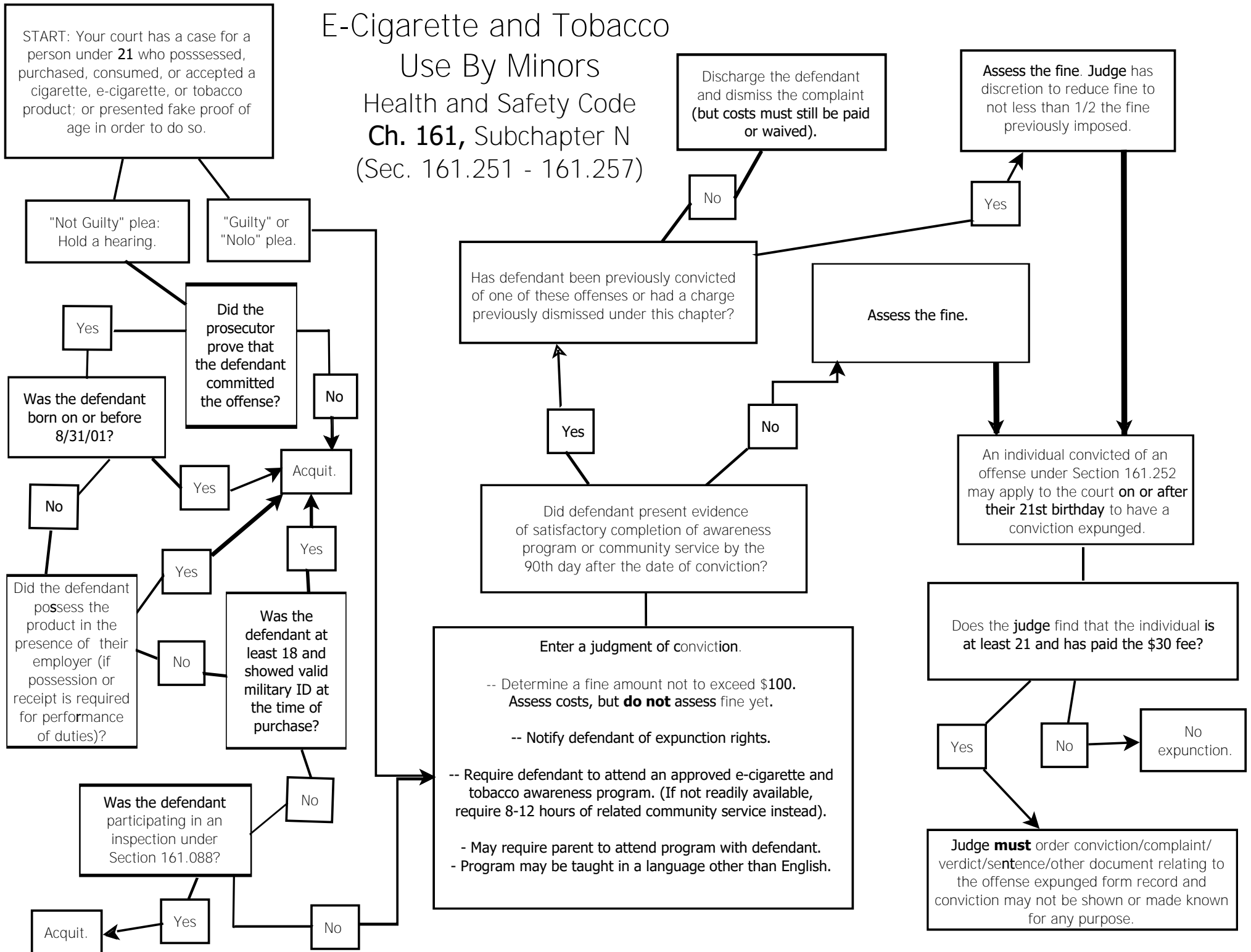
<p>Conviction of “sexting” offense</p>	<p>The defendant has only one conviction of an offense under Penal Code Sec. 43.261, was never adjudicated by a juvenile court as having engaged in the same conduct, and is now 17.</p> <p>Applicant files sworn, written application with the convicting court.</p>	<p>\$30</p>	<p>Art. 45.0216(b), (f), Code of Criminal Procedure</p>
<p>Arrest Records Related to Fine-Only Misdemeanors Not Resulting in Conviction or Acquittal (Adult defendants)</p>	<ul style="list-style-type: none"> • Offense is no longer pending, did not result in conviction, no other charges resulting from the arrest are pending, and at least 180 days has elapsed since arrest; • Prosecutor recommends expunction before trial of offense; or • Defendant convicted is subsequently acquitted by court of appeals or court of criminal appeals or pardoned. <p>Applicant files petition described by Art. 55.02, Sec. 2(b) with any court in the county in which the defendant was arrested or in which the offense was alleged to occur.</p>	<p>\$100*</p>	<p>Arts. 55.01, 55.02, 102.006, Code of Criminal Procedure</p>
<p>Arrest Records Related to Acquittals (Adult defendants)</p>	<p>Trial court must notify defendant of right to expunction upon acquittal. Defendant or prosecutor can make request. Defendant’s attorney prepares expunction order, if defendant is pro se, prosecutor does.</p> <p>Request can be made with trial court or petition described by Art. 55.02, Sec. 2(b) with any court in the county in which the defendant was arrested or in which the offense was alleged to occur.</p>	<p>\$0^</p>	<p>Arts. 55.01, 55.02, 102.006, Code of Criminal Procedure</p>

* Court may return all or a portion of this fee to the applicant.

^ Fee is only waived if petition is filed within 30 days of acquittal. If not, fee is \$100, though the court may return all or a portion of this fee to the applicant.

E-Cigarette and Tobacco Use By Minors

Health and Safety Code Ch. 161, Subchapter N (Sec. 161.251 - 161.257)



START: Your court has a case for a person under 21 who possessed, purchased, consumed, or accepted a cigarette, e-cigarette, or tobacco product; or presented fake proof of age in order to do so.

"Not Guilty" plea: Hold a hearing.

"Guilty" or "Nolo" plea.

Did the prosecutor prove that the defendant committed the offense?

Was the defendant born on or before 8/31/01?

Did the defendant possess the product in the presence of their employer (if possession or receipt is required for performance of duties)?

Was the defendant at least 18 and showed valid military ID at the time of purchase?

Was the defendant participating in an inspection under Section 161.088?

Enter a judgment of conviction.

- Determine a fine amount not to exceed \$100. Assess costs, but **do not** assess fine yet.
- Notify defendant of expunction rights.
- Require defendant to attend an approved e-cigarette and tobacco awareness program. (If not readily available, require 8-12 hours of related community service instead).
- May require parent to attend program with defendant.
- Program may be taught in a language other than English.

Has defendant been previously convicted of one of these offenses or had a charge previously dismissed under this chapter?

Discharge the defendant and dismiss the complaint (but costs must still be paid or waived).

Assess the fine.

An individual convicted of an offense under Section 161.252 may apply to the court on or after their 21st birthday to have a conviction expunged.

Does the judge find that the individual is at least 21 and has paid the \$30 fee?

No expunction.

Judge must order conviction/complaint/verdict/sentence/other document relating to the offense expunged from record and conviction may not be shown or made known for any purpose.

Assess the fine. Judge has discretion to reduce fine to not less than 1/2 the fine previously imposed.

Truancy Adjudication Hearing

Family Code Chapter 65
Subchapter A

Interpreter *must* be appointed for individuals that do not understand and/or speak English, as well as for deaf individuals, including the parent/guardian. *FC 65.013*

After petition filed, child may answer, orally or in writing, at or before the hearing. If child doesn't answer, general denial is presumed. *FC 65.060*

If child and guardian are present, court proceeds with hearing. *FC 65.062*

If child is not present, court **must** reset hearing. *FC 65.062(a)*

Child is present but guardian is not, court may proceed. *FC 65.061(a)*

Child entitled to a jury trial. *FC 65.101(b)(6)*
Trial by jury unless waived. *FC 65.101(c)*

Court may appoint guardian ad litem if parent or guardian isn't present or ad litem or attorney if court believes guardian is incapable of making decisions. *FC 65.061(a)*

Child may put on evidence, including affirmative defenses. *FC 65.101(e), 65.003*

State puts on evidence (must prove beyond reasonable doubt). *FC 65.010*

Court or jury (jury must be unanimous) determines, beyond reasonable doubt, engaged in truant conduct. *FC 65.101(h)*

If child was not found to be engaged in truant conduct, court must dismiss the case. *FC 65.101(h)*

If found to be engaged in truant conduct, court orders appropriate remedial actions (found in *FC 65.102(a)*) Court must pronounce those actions in child's presence and must put them in writing. *FC 65.102(a)*

Court must advise of right to appeal. *FC 65.102(c)(1)*

Court must advise about procedure for sealing record. *FC 65.102(c)(2)*

Court may enter an order against a parent or other person. *FC 65.105(a)-(c)*

Court may order \$50 court cost paid by child, parent, or other responsible person but **only** if able to pay. *FC 65.107(a)*

Truancy Pre-Hearing

Family Code Chapter 65
Subchapter A

School sends referral to truancy court. Must be within 10 days of 10th absence unless prevention measures succeeding.
FC 65.051; EC 25.0951

Truancy court refers truant conduct to prosecutor to review and determine whether or not to file a petition.
FC 65.051/FC 65.052

See Truancy Court Adjudication Hearing Flow Chart for information from hearing to disposition

Prosecutor informs school and court if not filing a petition.
FC 65.053(b)

Petition is filed with Truancy Court (no filing fee).
FC 65.054(a)-(e)

Cannot be filed if referral fails to meet Ed. Code 25.0915 requirements.
FC 65.053(c)

Cannot be filed more than 45 days after last absence.
FC 65.055

Court shall dismiss the petition if:

- If the court determines that probable cause exists to believe that the child has a mental illness;
- Truancy prevention measures and/or special ed certification missing;
- Elements of truant conduct not properly alleged;
- Referral not timely filed; or
- Referral is substantially defective.

EC 25.0951(c); FC 65.065

Court sets hearing. must not be scheduled on or before the 10th day from date petition filed.
FC 65.055(b)

Court shall order destruction of records that are held by court or by prosecutor if prosecutor decides not to file a petition after review.
FC 65.203

Court summons parent/guardian, child, & any other person necessary, with a copy of the petition. Served personally, registered mail or certified mail, at least 5 days before hearing.
FC 65.057