

Introduction to Criminal Procedure w/ Juvenile


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What will we
cover?

What cases are in Justice Court?
How does a criminal case start?
Response to a citation
What if they fail to appear?
How can the court dismiss the case?

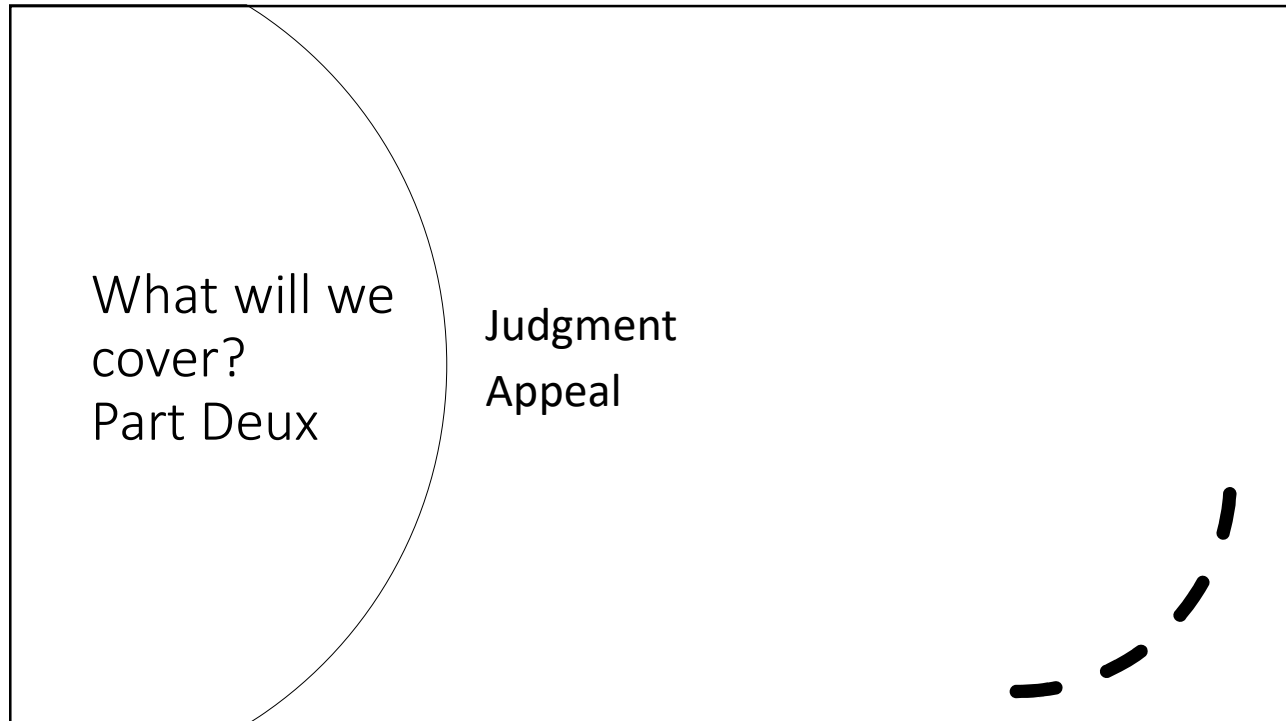
- Driving Safety Course (DSC)
- Deferred Disposition
- Compliance Dismissals



2

What will we cover?
Part Deux

Judgment
Appeal



3

Also --
Enforcement

- Payment Alternatives
- Courtesy Letter
- Collections
- Omni
- Capias Pro Fine
- Commitment to Jail

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What are we covering
– Juvenile Section

Pointing out different
resources, discussing diversion
(briefly)

5

Resources

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Relevant Deskbooks

Criminal Deskbook
Revised Oct. 2023

Juvenile Deskbook
Revised March 2024

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court, including small claims, debt claims, and deed restriction cases.


[Click here to download a copy.](#)



Criminal Deskbook

Revised October 2023. This deskbook covers procedure in justice court criminal cases. Information on magistration, juvenile cases, and fines, fees, and costs is found in separate deskbooks on those topics.

[Click here to download a copy.](#)




Evictions Deskbook


Revised October 2023. This deskbook covers procedure in eviction cases, as well as other landlord-tenant issues such as security deposits, repair and remedy cases, and writs of restoration, retrieval, and re-entry.

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Resources for Criminal Law



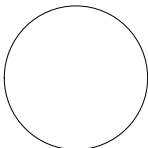
Criminal Deskbook
(October 2023) at www.tjctc.org > legal resources > deskbooks



Forms and Flowcharts at www.tjctc.org > legal resources > forms or > charts and checklists



Legal Board Q&As



Code of Criminal Procedure
(as cited on slides)

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Resources for Criminal Law



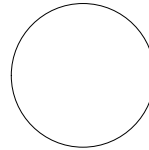
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Legal Board Q&As



Code of Criminal
Procedure
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The screenshot shows the navigation menu for the Court Training Center website. The menu items are: Court Personnel, Legal Resources, Online Learning, and Contact Us. The 'Legal Resources' menu is expanded, showing a list of options: Overview, Legal Question Board, Deskbooks, Forms, Charts and Checklists, Bench Exchange Program and Virtual Hearings Module, Constable Resources, The Docket, Traffic Safety Initiative, and Additional Resources. The 'Charts and Checklists' option is highlighted. The background of the website includes the text 'Court Training Center', 'ng Justice', 'rough Ed', 'INFORMATI', 'TY REPORT', 'FOR A', 'MON ALLEN', 'L EDUCATIO', 'PEACE', and '23 Legislative Upda'.

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<p>▶ Civil Process and Constable Forms - Updated April 2021</p> <p>Criminal Procedure Forms</p> <p>▶ Deferred and DSC - Updated June 2024</p> <p>▼ Warrants, Judgments, and Other Orders - Updated June 2024</p> <p><u>Affidavit of Indigency - Criminal Case</u> - Updated April 2021</p> <p><u>Alternatives to Payment of Fine and Costs</u> - Updated October 2021</p> <p><u>Appearance Bail Bond</u> (may only be used if Defendant failed to appear based on appearance personal bond AND can afford the bail bond) - Updated April 2021</p> <p><u>Appearance Personal Bond</u> - Updated April 2021</p> <p><u>Arrest Warrant and Return (Justice Court Criminal Case)</u> - Updated April 2021</p> <p><u>Bond Forfeiture - Citation</u> - Updated April 2021</p> <p><u>Bond Forfeiture - Final Judgment</u> - Updated April 2021</p>

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Table of Contents for Juvenile Deskbook (1/2)

- Chapter 1 (Truancy Cases) starts on page 2
- Chapter 2 (Parent Contributing to Non-Attendance Cases) starts on page 45
- Chapter 3 (Processing Juvenile Criminal Cases) starts on page 51
- Chapter 3A (Juvenile Criminal Diversions) starts on page 78
- Chapter 4 (Alcohol Cases) starts on page 99
- Chapter 5 (Tobacco Offenses) starts on page 108
- Chapter 6 (Non-Truancy School Offenses) starts on page 112

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Table of Contents for Juvenile Deskbook (2/2)

- Chapter 7 (Distracted Driving Offenses by Minors) starts on page 116
- Chapter 8 (Juvenile Criminal Case Records) starts on page 118
- Chapter 9 (Juvenile Case Managers) starts on page 122
- Chapter 10 (Juvenile Detention Hearings) starts on page 125

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Juvenile and Truancy Forms

▼ Juvenile & Truancy - updated December 2024

[Alcohol Offense Charts](#) - updated February 2024

[Awareness Program and Community Service Options Handout](#) - updated April 2024

[Conviction Order Options for Juveniles and Parents](#)

[Expunction Chart](#) - updated April 2024

[Juvenile Diversion Flowchart](#) - added December 2024

[Juvenile Diversion Plan Checklist](#) - added August 2024

[Tobacco Flowchart](#)

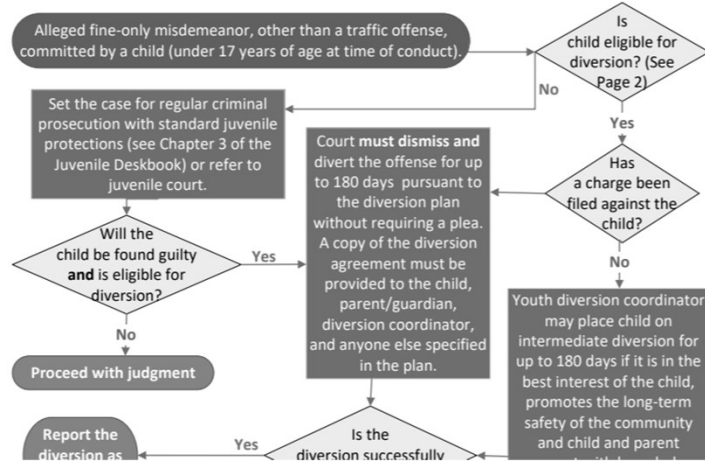
[Truancy Adjudication Hearing Flowchart](#) - updated October 2021

[Truancy Flowchart Pre-Adjudication Hearing](#) - updated October 2021

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Juvenile Criminal Diversion Flowchart

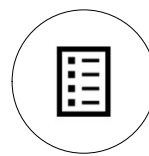
Juvenile Diversion Flowchart (eff. Jan. 1, 2025)



Resources for Criminal Law



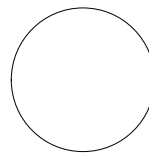
Criminal Deskbook (October 2023) at www.tjctc.org > legal resources > deskbooks



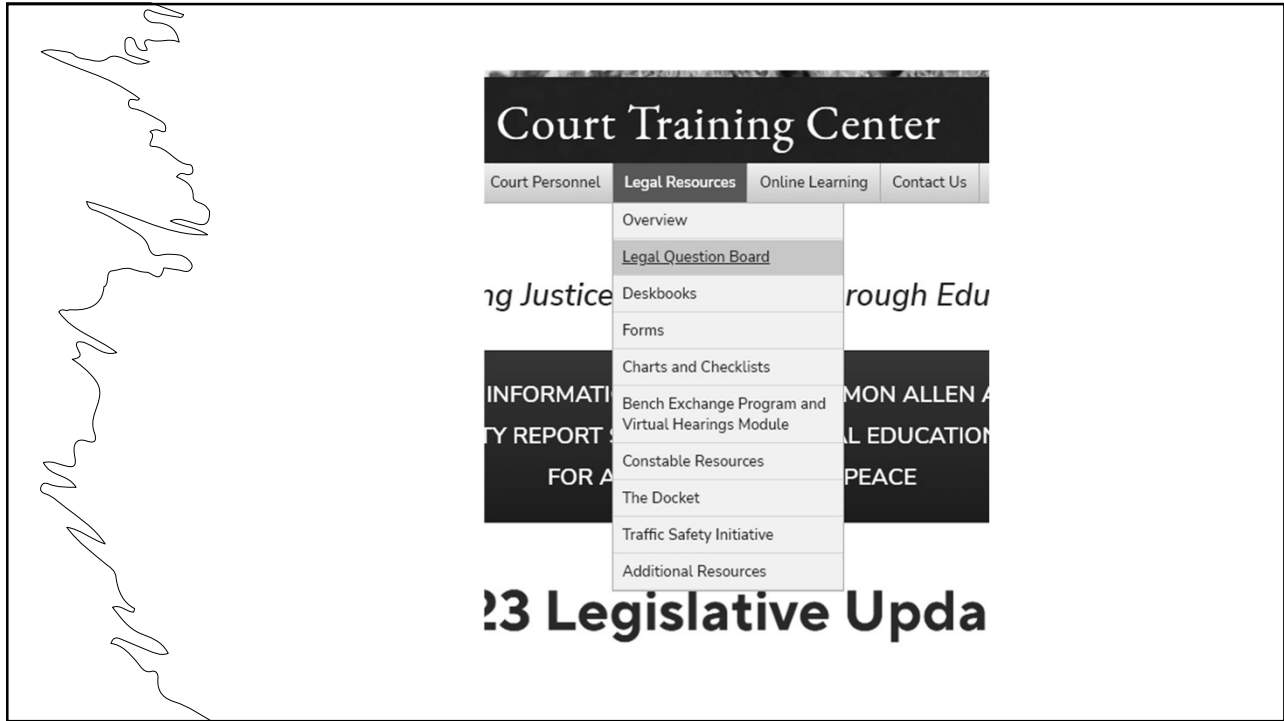
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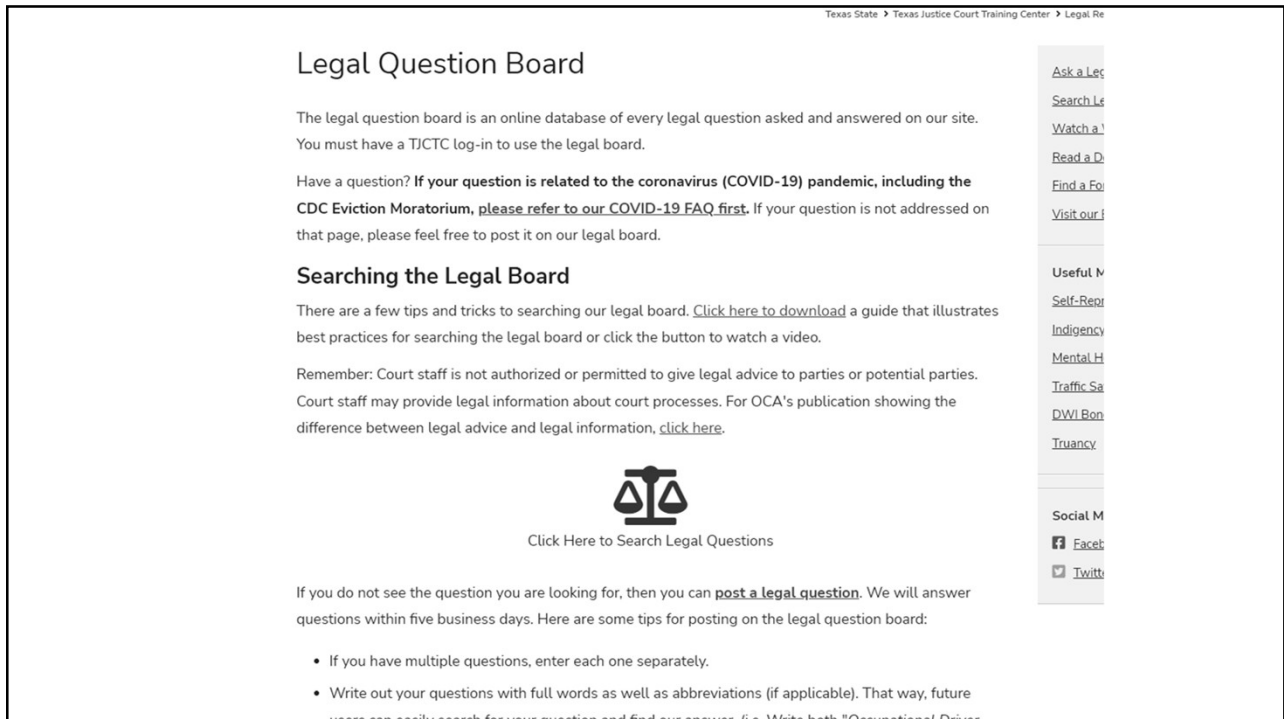
Legal Board Q&As



Code of Criminal Procedure (as cited on slides)



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Texas State > Texas Justice Court Training Center > Legal Re

Legal Question Board


The legal question board is an online database of every legal question asked and answered on our site. You must have a TJCTC log-in to use the legal board.

Have a question? If your question is related to the coronavirus (COVID-19) pandemic, including the CDC Eviction Moratorium, please refer to our COVID-19 FAQ first. If your question is not addressed on that page, please feel free to post it on our legal board.

Searching the Legal Board

There are a few tips and tricks to searching our legal board. [Click here to download](#) a guide that illustrates best practices for searching the legal board or click the button to watch a video.

Remember: Court staff is not authorized or permitted to give legal advice to parties or potential parties. Court staff may provide legal information about court processes. For OCA's publication showing the difference between legal advice and legal information, [click here](#).



Click Here to Search Legal Questions

If you do not see the question you are looking for, then you can [post a legal question](#). We will answer questions within five business days. Here are some tips for posting on the legal question board:

- If you have multiple questions, enter each one separately.
- Write out your questions with full words as well as abbreviations (if applicable). That way, future users can easily search for your question and find our answer. (i.e. Write both "Occupational Driver

Ask a Leg

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Resources for Criminal Law



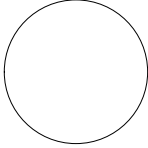
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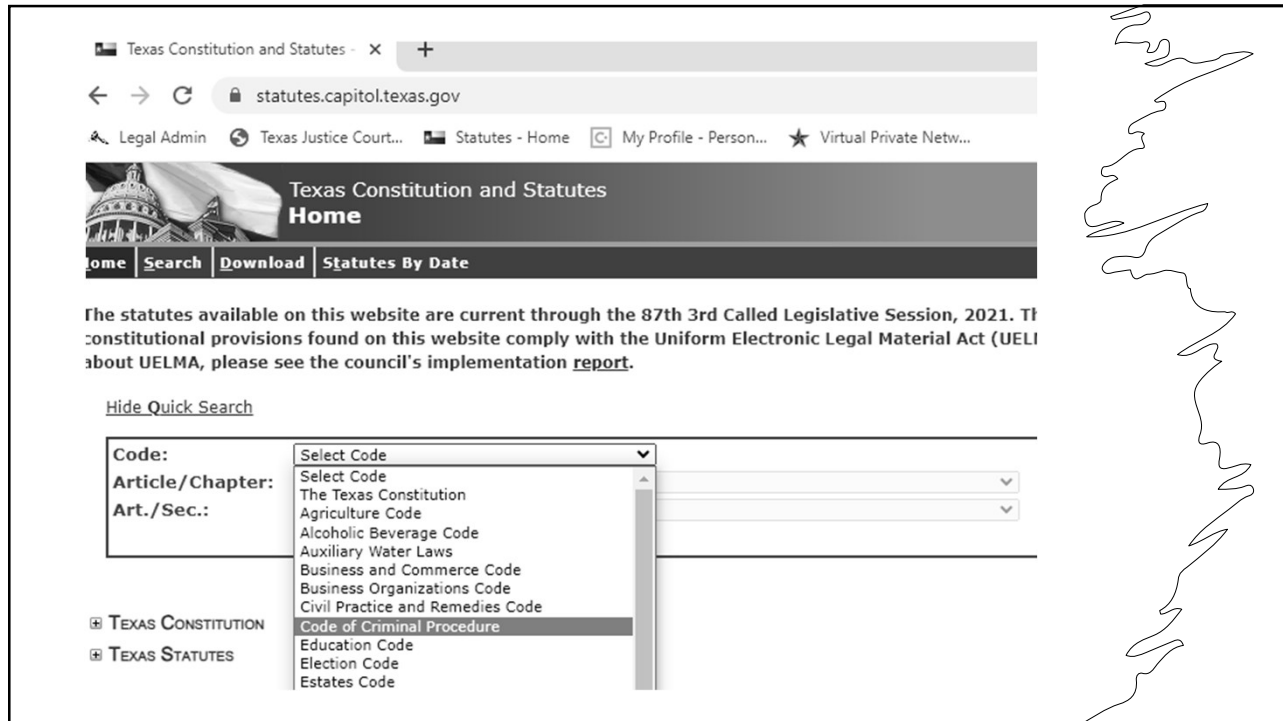


Legal Board Q&As



**Code of Criminal
Procedure**
(as cited on slides)

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The screenshot shows the website statutes.capitol.texas.gov. The page title is "Texas Constitution and Statutes Home". Below the title are navigation links: Home, Search, Download, and Statutes By Date. A notice states: "The statutes available on this website are current through the 87th 3rd Called Legislative Session, 2021. The constitutional provisions found on this website comply with the Uniform Electronic Legal Material Act (UELMA), please see the council's implementation [report](#)." Below this is a "Hide Quick Search" link and a search form. The search form has three input fields: "Code:", "Article/Chapter:", and "Art./Sec.:". A dropdown menu is open under "Code:", listing various codes. The "Code of Criminal Procedure" is highlighted. To the left of the dropdown are checkboxes for "TEXAS CONSTITUTION" and "TEXAS STATUTES". To the right of the search form are two more dropdown menus. On the far right of the screenshot is a vertical outline map of Texas.

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Legal Resources for Criminal/Juvenile Matters

- Chapter 45 of the Code of Criminal Procedure
Beginning 1/1/25 many parts of Chapter 45 were reorganized into Chapter 45A
- HB 3186 of the 88th Regular Legislative Session (the "Texas Youth Diversion and Early Intervention Act")

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Criminal Jurisdiction

What cases do we deal with?

27

What kind of cases does a JP hear?

A justice court only has “**jurisdiction**” (meaning the authority to act), in criminal cases that are **not** punishable by jail time.

These offenses are sometimes referred to as “**fine-only**” misdemeanors, since the punishment is “only” a fine, and not jail or prison.

- Code of Criminal Procedure Art. 4.11; Texas Constitution, Art. 5, § 19

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“Fine only” misdemeanors

- **“Fine-only” misdemeanors** include any offenses where the only penalty is a monetary fine.
- They also include offenses that have a monetary fine plus some other kind of **sanction** that doesn’t include jail.

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For example ...

An example of a fine-only offense with a sanction is Minor in Possession of Alcohol.

Someone convicted of this offense must perform community service and take an alcohol awareness class in addition to their fine. Despite these additional sanctions, this is still considered a “fine-only” misdemeanor.

30

Class C Misdemeanors

The main category of fine-only misdemeanors are **Class C misdemeanors**, which have a fine range of \$1-500 and no confinement in jail or prison.

- Penal Code Sec. 12.23.

31

Other fine only misdemeanors

Not all fine-only misdemeanors are Class C misdemeanors, since they do not have a fine range of \$1-500, some examples include:

- Most “Rules of the Road” traffic offenses, such as speeding (fine range \$1-200).
- Electronic messaging while driving (fine range \$25-99).
- Passing a school bus while loading/unloading children (fine range \$500-1250).

32

Juvenile cases

Justice courts hear several types of criminal cases that are filed against juveniles.

Criminal cases filed against defendants who are under 17 years of age have separate rules and procedures.

- Consult the Juvenile Deskbook for more information

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Time for a
Poll

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Poll Question #1

Q. The fine for a second offense of operating a motor vehicle without insurance is a fine of “not less than \$350 or more than \$1,000” under Transportation Code § 601.191.

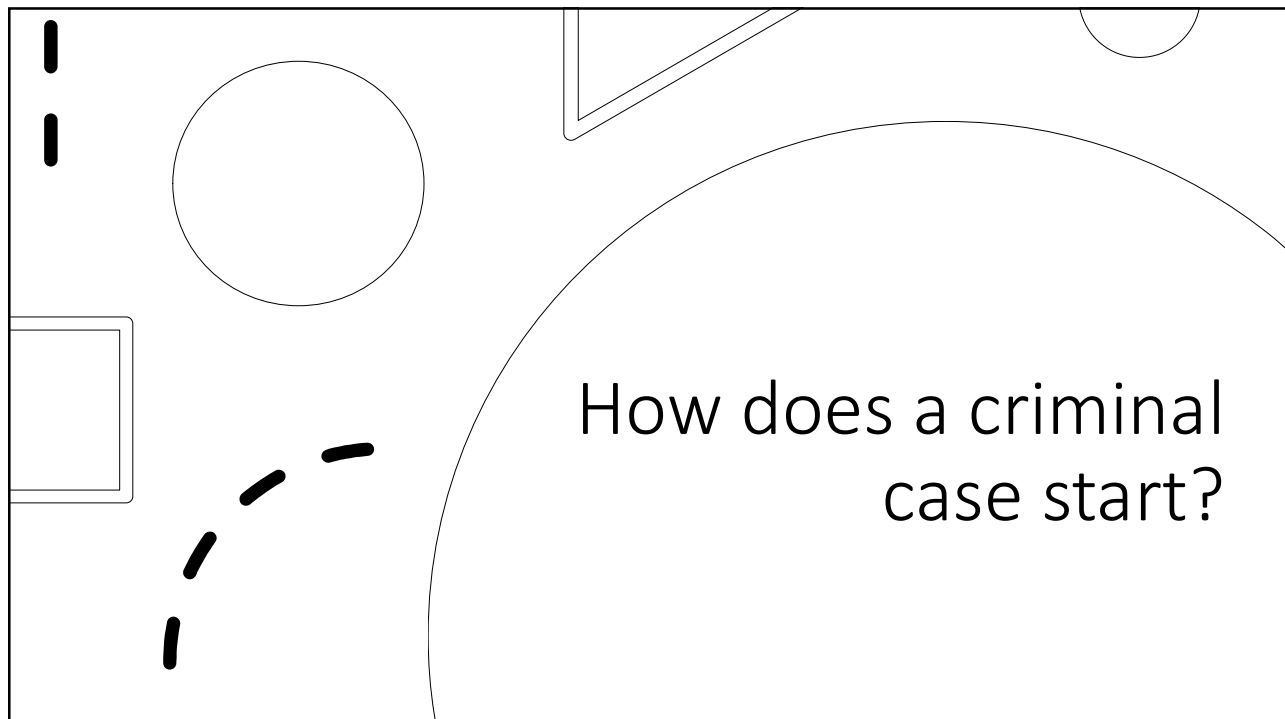
Since the fine can be more than \$500, a justice court does not have jurisdiction over this case.

True

False

See Criminal Deskbook at pages 3-4.

35



36

How does a criminal case start?

A criminal case in Justice Court usually starts when a law enforcement officer sees someone commit a fine-only offense. For example:

- Speeding
- DWLI (driving with license invalid)
- Minor in possession of alcohol



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How does a criminal case start?

The officer usually gives the person a citation (or ticket)

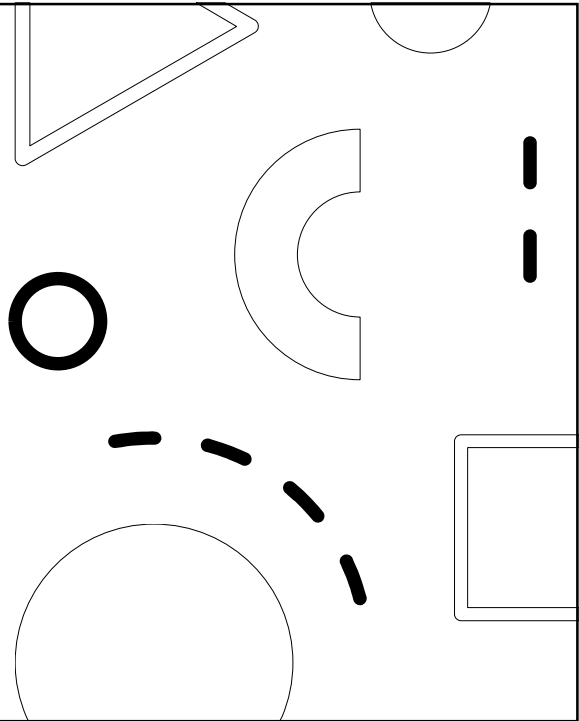
The citation tells the person which court they have to appear in to answer the charge and by what date

A duplicate copy of the citation must be filed with the court.

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CCP Art. 27.14(d)

The duplicate copy of the citation “serves as a complaint to which the defendant may plead ...”



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How does a criminal case start?

When an officer stops someone and gives them a ticket, they are in custody (they are not free to leave)

For traffic offenses, the officer will ask the person to sign a promise to appear in court.

The promise to appear is a condition of their release from custody.



40


What happens if the
person refuses to sign
the promise to appear?

It's not a day at the
country club.


41

Most people are
released after
being given a
citation and
promising to
appear.


42



Are there cases that are started without a citation being issued?



Yes!



For example:
Parent contributing to non-attendance
Theft by check
Environmental (e.g. septic or nuisance)

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Ways a criminal case starts

A sworn complaint must be filed charging the defendant with commission of the offense.

- Signed by the officer or a prosecutor, not by the court
- Meet the requirements of Code of Criminal Procedure (CCP) Art. 45.019,

44

Ways a criminal case starts

In those cases, a complaint is filed first, charging the defendant with an offense, and then a **summons** is issued requiring the person to appear and answer the charge

The defendant does **NOT** make a promise to appear.

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Response to a
citation

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Response to a citation – option one

When a person is given a citation, they might mail or deliver in person a **plea of not guilty**.

If that happens, a trial date should be set, and the defendant should be notified.

47

There is a constitutional right to a jury trial in a criminal case

A criminal defendant gets a jury trial unless they waive their right to a jury in writing.

They do not have to pay a jury fee.

This is different than what we see in a civil proceeding, where a party has to make a jury demand and pay a fee.

48

Response to a citation – option two

When a person is given a citation, they might mail or deliver in person a **plea of guilty** or **nolo contendere**.

49

I hate Latin

What does “**nolo contendere**” mean?

I’m not saying I did it.
I’m not saying I didn’t do it. I’m saying that I’m not going to fight the charge.

This can be important for civil cases.

50

What if the defendant just mails in the payment?

“Payment of a fine or an amount accepted by the court constitutes a finding of guilty in open court as though a plea of nolo contendere had been entered and constitutes a waiver of a jury trial in writing.” Art. 27.14(c)

51

What if the defendant just mails in the payment?

BUT, defendant loses the right to appeal

52

Defendant mails in plea of guilty or nolo and a waiver of jury but doesn't send in money

Court should dispose of the case without requiring the defendant to appear IF:

- The court receives the plea and waiver before the time the defendant was scheduled to appear in court, or
- The court receives the plea and waiver after the time the defendant was scheduled to appear in court but at least five business days before a scheduled trial date

CCP Art. 27.14(b)

53

Defendant mails in plea of guilty or nolo and a waiver of jury but doesn't send in money

Defendant (usually through an attorney) may ask for an appeal bond.

Why bother? They plan on appealing and going to trial in county court.

54

Defendant mails in plea of guilty or nolo and a waiver of jury but doesn't send in money

Procedure is the same either way.

If timely made, the court should dispose of the case.

55

Defendant mails in plea of guilty or nolo and a waiver of jury but doesn't send in money

This means the court should notify the defendant in person or by regular mail of:

1. The amount of any fine or costs assessed in the case;
2. Information regarding alternatives to full payment if the defendant is unable to pay that amount; and
3. If requested, the amount of an appeal bond the court will approve.

56

Defendant mails in plea of guilty or nolo and a waiver of jury but doesn't send in money

Defendant must pay any fine or costs assessed or give an appeal bond in the amount stated in the notice, before the 31st day after receiving the notice. CCP Art. 27.14(b)

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Response to a citation – option three

They come to you.

“What are my options?”

58

What do you tell them?

Do you want to plead guilty or nolo and pay a fine?

Do you need an installment plan?

Do you want to plead guilty and go to trial?

DSC or deferred disposition?

Do you want to speak to the judge about alternatives to full payment of the fines and court costs?

WE'LL TALK ABOUT THIS LATER.

59

Time for a
Poll

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Poll Question #2

Joe gets a citation for speeding. He mails in a plea of not guilty and does not waive his right to a jury. The court should:

- A. Set the case for a bench trial since it is hard to schedule a jury trial right now in my county.
- B. Tell Joe he has to pay the \$22 jury fee.
- C. Set the case for a jury trial.

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Juvenile cases

Justice courts hear several types of criminal cases that are filed against juveniles.

Criminal cases filed against defendants who are under 17 years of age have separate rules and procedures.

- Consult the Juvenile Deskbook for more information

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Response to a citation – option four

The stupid option. Call the clerk and never follow up, or ignore the citation and hope the whole thing goes away.

63

Calling the clerk, and nothing more, isn't an appearance

64

So, what do you do
if the defendant
just ignores the
citation and fails to
appear?

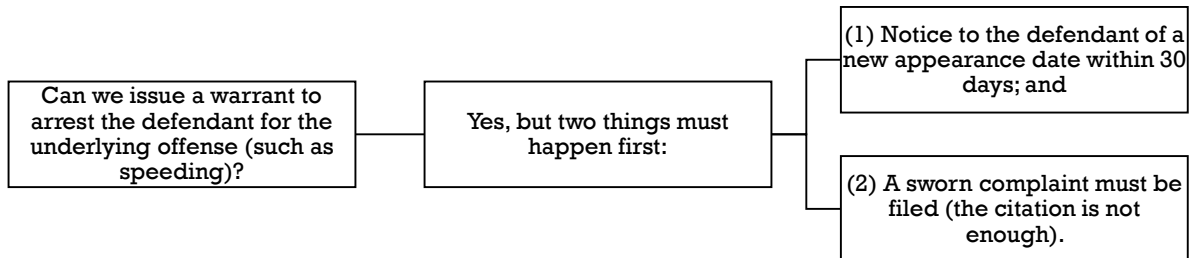
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Option 1: Courtesy Letter

- A friendly reminder never hurt anyone.
- There are no specific requirements unless the case is going to be upgraded to a warrant.

66

Option Two: arrest warrant



67

Option two: arrest warrant

The notice may be provided by telephone or first-class mail.

It must give:

- A date and time within 30 days of the date of the notice when the defendant must appear before the judge;
- The name and address of the court.

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Option 2: arrest warrant

It must also include:

- Information about alternatives to the full payment of any fine or costs if the defendant is unable to pay that amount; and
- An explanation of the consequences if the defendant fails to appear before the judge

CCP Art. 45.014(e)(1)

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CAUSE NO. _____

STATE OF TEXAS	§	IN THE JUSTICE COURT
	§	
v.	§	PRECINCT _____
	§	
DEFENDANT _____	§	_____ COUNTY, TEXAS

NOTICE OF FAILURE TO APPEAR PRIOR TO ISSUANCE OF WARRANT

The court **FINDS** that Defendant failed to appear as required on _____, 20____. Defendant is **ORDERED** to appear at _____, _____ County, Texas, at _____, on _____, 20____. Failure to appear may result in non-renewal of Defendant's driver's license and/or a warrant being issued for Defendant's arrest.

NOTICE OF ALTERNATIVES TO PAYMENT OF FINE AND COSTS: A defendant who is convicted of a criminal offense punishable by fine only is entitled to alternative methods of satisfying the judgment against them if they are unable to pay the fine or costs, in whole or in part, including:

- A payment plan, allowing the defendant to make payments toward the fine and costs in designated intervals. *(Note that payment more than 30 days after the fine or costs are assessed will result a \$15 time payment reimbursement fee being charged.)*
- Disposition of the amount assessed by performing community service. There are many options that meet the requirements of the law for community service, see Code of Criminal Procedure Art. 45.049 for full details. A defendant is entitled to a minimum of \$100 credit for every 8 hours of community service performed.
- If performing community service imposes an undue hardship, a defendant who is unable to pay may be entitled to a waiver of the fine and costs, in whole or in part.
- A defendant may be entitled to jail credit in certain circumstances if the defendant served a jail or prison sentence for another offense after committing this offense.

Defendant was notified of this information by:

Telephone at the following number: _____

Regular mail at the following address: _____

ISSUED AND SIGNED on _____, 20____.

JUSTICE OF THE PEACE, PRECINCT _____
_____ COUNTY, TEXAS

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Option 2: arrest warrant

The court must voluntarily recall the warrant if the “defendant voluntarily appears and makes a good faith effort to resolve the arrest warrant before the warrant is executed.”

CCP Art. 45.014(g)

71

Time for a
Poll

72

Poll Question #3

Since Joe did not show up, we can now automatically add \$200 to the fine we can impose on his original offense.

- A. True
- B. False

73

Option 3: New Offense of VPTA or FTA

- A charge of Violate Promise to Appear or Failure to Appeal is a separate offense.
- There must be a sworn complaint alleging the offense (preferably filed by law enforcement or a prosecutor).
- The defendant must enter a plea, and is entitled to a jury, just like any other criminal charge.

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Option 3: New Offense of VPTA or FTA

- VTPA only applies to a Rules of the Road Offense, Chapters 540-600 of Transportation Code
- If a person willfully violates their promise to appear in court, which they made to be released from custody, then they commit a new offense regardless of what happens with the underlying offense. Transportation Code section 543.009

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Option 3: New Offense of VTPA or FTA

- Fine amount for VPTA is not less than \$1 nor more than \$200. Transportation Code, section 542.401

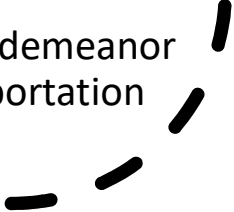
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Option 3:
New Offense
of VTPA or
FTA

Failure to Appear applies to all other offenses, like possession of drug paraphernalia.

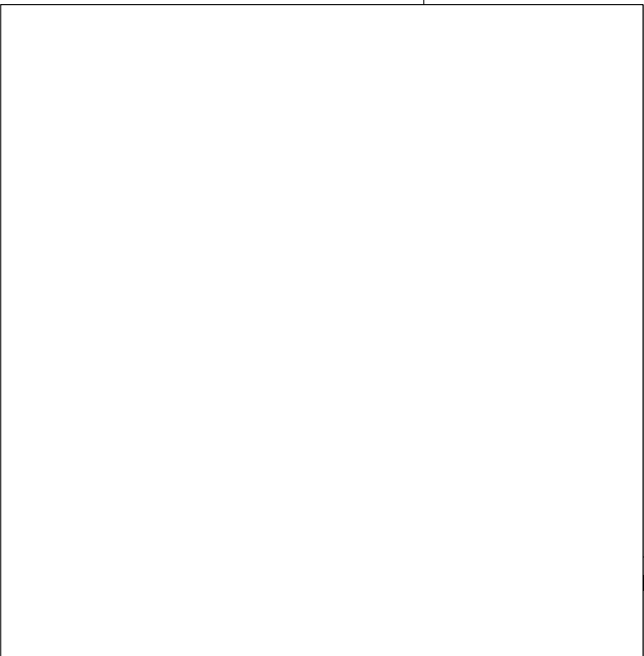
It applies if a person is released from custody on the condition that he subsequently appear but then he intentionally or knowingly fails to appear in accordance with his terms of release

An FTA offense is a class C misdemeanor with a fine up to \$500. Transportation Code section 38.10(e)



77

Time for a
Poll



78

Poll Question #4

Can a defendant who has been charged with a Rules-of-the-Road offense be charged with FTA instead of VPTA, since FTA has a higher fine amount?

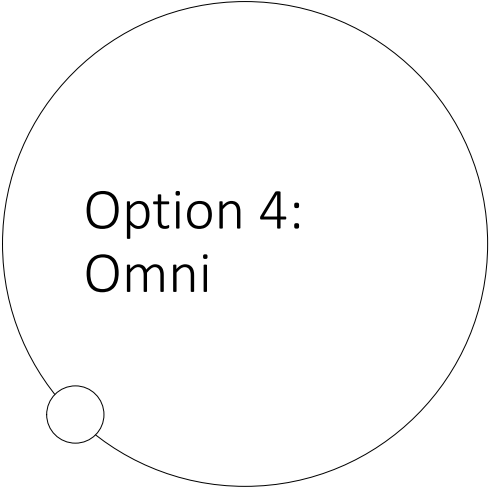
- A. Yes
- B. No

79

Answer: Nope

Azeez v. State 248 S.W.3d 182 (Tex. Crim. App. 2008)

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Option 4:
Omni

DPS “may deny renewal of the person’s driver’s license for failure to appear based on a complaint or citation.”
Transportation Code section 706.004.

Omni is the program that the state uses to take advantage of this statute.

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Option 4: Omni

To place someone into Omni for not appearing in response to a citation, the court:

- Does NOT need to have a sworn complaint
- Does NOT have to issue a warrant
- Does NOT need to have an FTA or VPTA criminal charge filed.

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Option 4: Omni

If a defendant is acquitted of the offense, they must be removed from Omni without paying a fee.

83

Option 4: Omni

A defendant can be removed from Omni if they pay a \$10 reimbursement fee and:

- Perfect an appeal of the case;
- Obtain dismissal of the charge;
- Post an appearance bond;

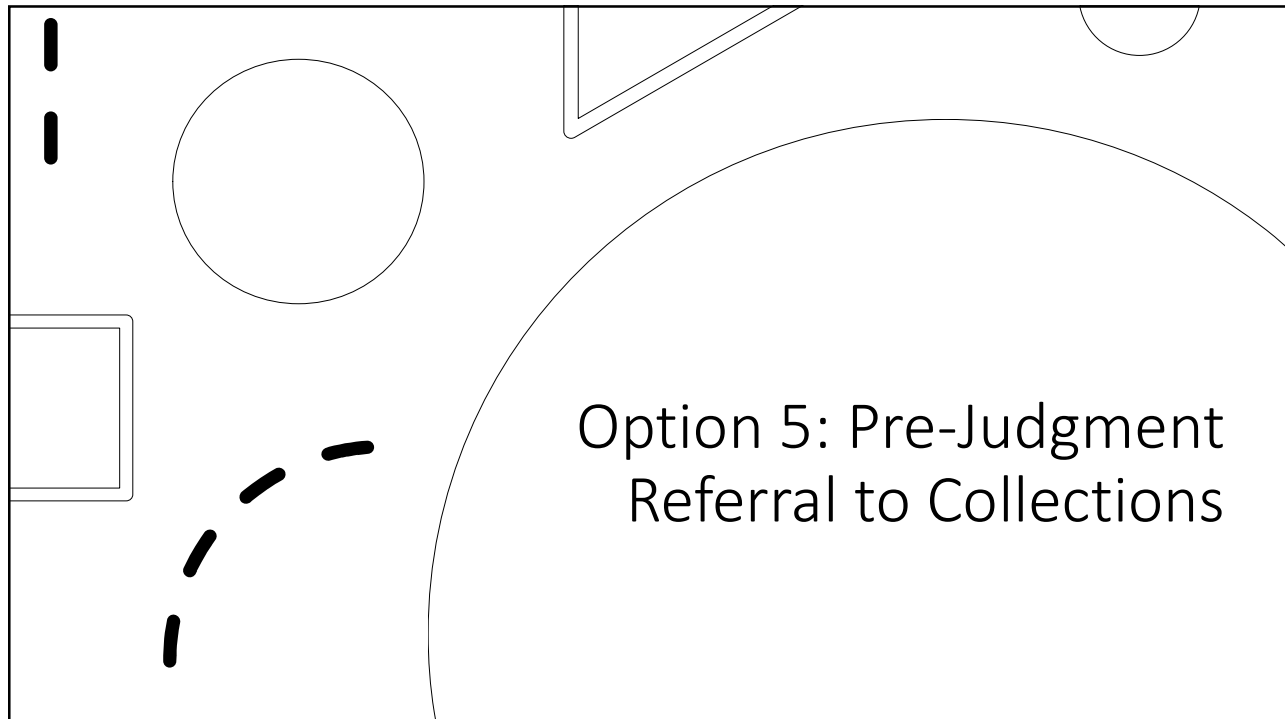
84

Option 4: Omni

- Pay or discharge the fine and costs on an outstanding judgment; or
- Make suitable arrangements to pay the fine and costs within the court's discretion (like an installment plan)

Transportation Code section 706.005(a).

85



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Option 5: Pre-Judgment Referral to Collections

- If someone fails to appear after promising to appear or after receiving a notice to appear, they may be turned over to an attorney or collection services.
- A collection fee of 30% may be added on to any amount that is more than 60 days past due and has been referred to the attorney for collection.

-- CCP Art. 103.0031(b)

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Option 6?: Convict them anyway?



**Can we just go ahead
and impose a fine
and court costs?**

What if they no-show over and
over again?



**NO! A defendant
NEVER owes a fine
or court costs until
they:**

Plead guilty or nolo
contendere; or

Are proven guilty beyond a
reasonable doubt by the state
at trial.



**So this is NOT an
option!**

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Failure to Appear Flowchart



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Break Out Group Discussion

Sam gets a citation for speeding. He does not enter a plea of guilty, nolo or not guilty; he does not contact the court; he just ignores it hoping the whole thing will go away. Your judge asks you what she should do.

Use the Failure to Appear Flowchart to discuss:

A. The Court's Options; and

B. What your recommendation to the judge would be.

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When may the
Court dismiss
a case?

91

What does it mean to dismiss a case?

When the case is dismissed, an order is entered that the case go away.

The defendant will **not** have a criminal conviction on their record.

92

Time for a
Poll

93

Poll Question #5

Can a judge in any instance decide to dismiss a case if they think there was no basis for filing the case?

- A. Yes
- B. No

94

When may a criminal case be dismissed?

Only two conditions allow a justice court to dismiss a criminal case:

1. A **motion to dismiss** from a prosecutor; or
2. A **statute** granting explicit authority to the court to dismiss

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Dismissal Statutes

The two most common ways that justice courts dismiss criminal cases on their own are if the defendant completes:

- A Driving Safety Court (DSC)
or
- Deferred Disposition.

96

Third option – Compliance Dismissal

Some statutes allow a court to dismiss a case (without a motion from the prosecutor) when the defendant complies with certain requirements

For example: the defendant gets a ticket for no front license plate. A statute says if the defendant gets a front license plate and pays a \$10 reimbursement fee before their first appearance, then the case will be dismissed.

97



Driver Safety
Course
Dismissal

98

Driving Safety Course (DSC) Dismissal

“Defensive driving” – the case will be dismissed if the defendant takes a class on driving safety.

The court must tell the defendant they have a right to dismiss a case by taking a DSC if they are eligible and come into court to dispose their case.

Code of Criminal Procedure, Art. 45A.353

99

Driving Safety Court (DSC) Dismissal

DSC dismissal has strict eligibility requirements, which the court can only waive in very limited circumstances

And if a defendant **does** qualify for a DCS dismissal, the court **must** allow them to take the course if they request it.

100

Driving Safety Court

- Only available for offenses that involve the operation of a motor vehicle

101

“Mandatory” DSC

We will refer to the situation where the court **must** allow an eligible defendant to dismiss their case through DSC as **“mandatory DSC.”**

102

“Mandatory” DSC

By “mandatory” we mean that the court has to allow the defendant to take it. The defendant can choose to use this option.

The defendant could plead not guilty and go to trial, or they could plead guilty and just pay the fines and costs.

103

Eligibility for mandatory DSC

On or before the answer date, the defendant MUST:

1. Enter a plea of guilty or nolo in person or in writing and
2. Request to take DSC

104

Eligibility for mandatory DSC

3. Provide proof of financial responsibility (insurance)
 - See pages 54-55 of the Criminal Deskbook for more information

105

Eligibility for mandatory DSC

4. Have a valid Tx DL, or must be an active-duty military servicemember or the dependent of an active servicemember

106

Eligibility for mandatory DSC

5. NOT have taken DSC in the previous 12 months from the **date the last course was taken** to the **date of the new offense**.

107

Eligibility for mandatory DSC

Example: David got a citation on 9/27/22, took DSC on 10/25/22, and the case was dismissed on 12/27/22.

David would be eligible for any new offense occurring on or after 10/26/23

108

What types of offenses? Under 25 version

For defendants under the age of 25, only offenses involving the operation of a motor vehicle that are classified as a “Moving Violation” are eligible.

The “Definition of Moving Violation” box can be found on page 47 of the Criminal Deskbook.

109

Offenses for grownups
that are DSC eligible?

Disregarding warning
signs/barricades

“Rules of the Road”
(Transportation Code
section 541-553)

110

Ineligible Offenses

Passing a school bus that
is loading/unloading
children

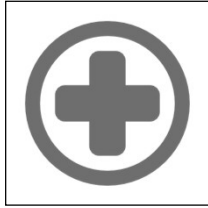
111

Exceptions

- Speeding 25 mph or more over the speed limit
- Speeding with a total speed of 95 mph or more

112

What offenses are NOT eligible for DSC?



Failure to stop and render
aid after an accident



Failure to stop and
exchange information
after an accident

113

The defendant is
also not eligible for
DSC if

-
- The offense occurred
in a **work zone**
(construction zone)
with **workers present**
(except safety belt,
safety seat, and
inspection offenses) or

114

The defendant
is also not
eligible for DSC
if

The defendant had a
**Commercial Driver's
License (CDL)** or had
one at the time of the
offense.

115

Discretionary DSC

Judge may allow the defendant to take a DSC even if the defendant has taken course within the last 12 months OR if request made AFTER the appearance date.

The Court, however, may not waive any other requirement

- For example, the Court cannot offer DSC to someone who was speeding at 98 mph or someone with a CDL.

Code of Criminal Procedure Art. 45A.352

116

Fees for DSC

117

Fees for Mandatory DSC

- Court must apply all relevant court costs and mandatory fines.
- Additionally, Court may assess a reimbursement fee, which is capped at \$10

CCP Art. 45A.358

118

Fees for Discretionary DSC

- The Court shall assess court costs and required fees.
- Additionally, the Court may assess a fine not to exceed the maximum amount of fine for the offense.

CCP Art. 45A.358(a)(2).

119

Time to pay the fees and costs

Court **may** order fees and costs (or fine for discretionary DSC) to be paid up front or **may** allow them to be paid within 90 days.

120

—

Time to pay the fees and costs

If the defendant pays any amount more than 30 days after the order allowing DSC, then they must also pay a time payment reimbursement fee of \$15

121

Time for Polls



122

Poll Question #6

Are you eligible for DSC for speeding 15 mph over the speed limit?

- A. Yes
- B. No

123

Poll Question #7

Are you eligible for mandatory DSC for passing a school bus while it is loading or unloading children?

- A. Yes
- B. No

124

Poll Question #8

Are you eligible for DSC for speeding in a construction zone with workers present?

- A. Yes
- B. No

125

Poll Question #9

Are you eligible for DSC when you have a commercial driver's license?

- A. Yes
- B. No

126

Process for getting DSC

Court must allow defendant 90 days to

- Provide proof of completion of DSC
- Provide a copy of their DPS driving record
- Submit an affidavit that they are not currently taking a DSC to dismiss a different case, and that they have not taken a course in the previous 12 months that is not reflected on the driving record.

127

When the Defendant complies

If the defendant completes the DSC and submits all required information to the court, the court shall:

- Dismiss the charge, **and**
- Report the fact that the defendant successfully completed a driving safety course and the date of completion to the DPS for inclusion in the person's driving record.

128

When the Defendant fails to comply

If the defendant fails to comply, court shall notify the defendant in writing of their failure and set a show cause hearing.

Remember that a **show cause hearing** is a hearing where the defendant must give a good reason why the court shouldn't take an action.

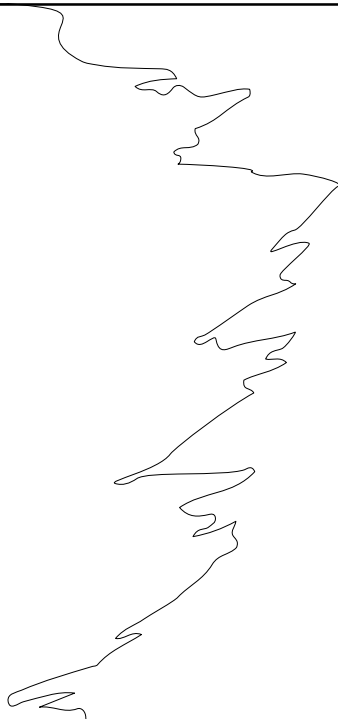


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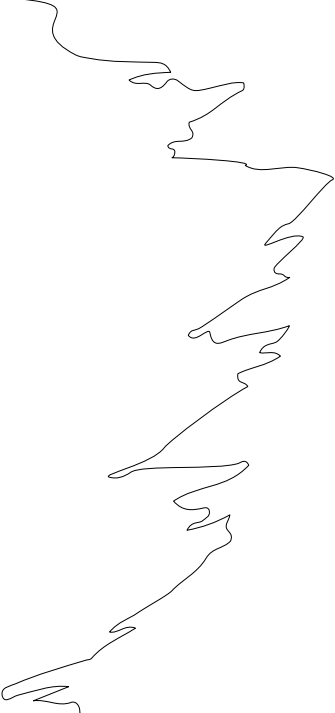
At the show cause hearing

If the defendant shows good cause, the judge **may** grant an extension to allow the defendant to comply.

If the defendant fails to appear or provide good cause, the court should enter a judgment of **conviction** and may assess a fine.



130



At the show cause hearing

If the defendant has already paid court costs, they don't have to pay them again.

131

At the show cause hearing

- Do not charge the defendant with FTA or VPTA, or report them to Omni if they no-show the show cause
- The Defendant already appeared in the case by pleading guilty or nolo

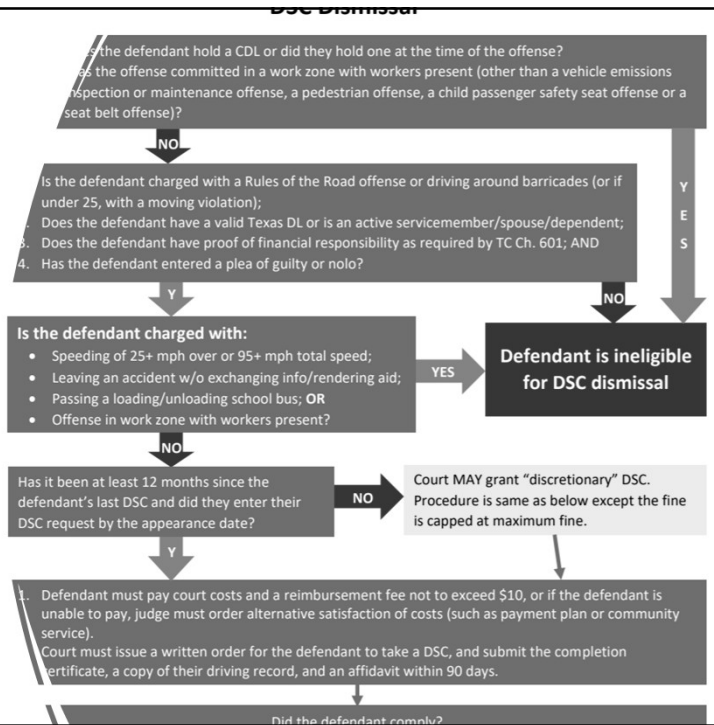
132

Coming Attractions

If the defendant is convicted and subsequently fails to satisfy the judgment, the court may enforce the judgment as usual.

133

DSC Flowchart (Criminal Deskbook, page 59)



134

Break out group discussion (5 minutes)

Using the DSC Flowchart, decide what to do in the following scenarios:

1. Sam gets a speeding ticket for going 50 mph in a 35-mph zone. He completed a DSC 11 ½ months before the date of his current offense. Is he eligible for mandatory DSC? If not, may the court allow him to take DSC anyway? If so, what is the difference in what he may have to pay?

135

Break out group discussion (5 minutes)

2. Jane requests DSC dismissal on her appearance date, which is Dec. 10. The date of the offense was Oct. 20 and she got a CDL on Nov. 15. Is she eligible for DSC?

136

Break out group discussion
(5 minutes)

3. Harold requests DSC for a speeding ticket. He has an Alabama driver's license. He is not a service member or a dependent of a service member. Is he eligible for DSC?

137

Break out group discussion
(5 minutes)

4. Louise is charged with speeding in a school zone (33 mph in a 20-mph zone). Is she eligible for DSC?

138

Deferred Disposition

139

Deferred Disposition

Deferred disposition is a process where the court **dismisses** a criminal case when the defendant complies with conditions that the court orders.

CCP Art. 45A.302

140

Broad Discretion

- Courts generally have very broad discretion on whether or not to allow a defendant the option of deferred disposition.
- Unlike DSC dismissal, a defendant generally does not have a **right** to a deferred disposition; it is just up to the judge.

141

What offenses are eligible

Any offense may be deferred except:

- Offense **relating to motor vehicle control** committed by a person holding a CDL or who held a CDL at time of the offense.

See 42 of the Criminal Deskbook for more information on what “motor vehicle control” means

142

What offenses are eligible

Any offense may be deferred except:

- **Rules of the Road** offense that occurs in a **work zone** with workers present.

Exception: seat belt or child safety seat offenses may be deferred even if committed in a work zone with workers present.

143

Fees and Costs

All court costs **may** be required to be paid when the defendant enters the plea. The judge **may** allow the defendant to enter into a payment plan or waive court costs if the person is unable to pay them.

144

Fees and Costs

In addition, the Court may charge a “fine.”

This initial fine must not exceed the maximum fine for the offense

For example, the maximum fine for speeding is \$200. You can impose an initial fine of up to \$200 + court costs to defer a speeding case. There **must not** be any additional fee on top of this.

145

Time payment reimbursement fee

If any portion of the fine or court costs are paid more than 30 days after the order to pay them, the **\$15 Time Payment Reimbursement Fee** is assessed.

146

Conditions for deferral

- The judge gives **conditions** to the defendant. If the defendant complies with all the conditions, then the case is **dismissed**.
- The law gives the judge a list of possible conditions PLUS a catch-all of “any other reasonable condition” so the judge has **broad discretion** in what to require.
 - See page 46 - 47 of the Criminal Deskbook for mandatory conditions in some circumstances.

147

Conditions for deferral

List includes:

- Pay restitution to victim
- Submit to professional counseling
- Submit to drug/alcohol testing

148

Conditions for deferral

List includes:

- Participate in a drug/alcohol treatment/education program
- Complete DSC (but DSC statutes don't apply)
- Provide proof to Court of compliance with terms of deferral

149

Contents of Written Order

1. All terms and conditions with which the defendant is required to comply.

TJCTC recommends including a condition requiring the defendant to demonstrate compliance with the order.

2. The amount of the initial fine.

This may not exceed the maximum possible fine for the charged offense.

150

Contents of Written Order

3. The amount of the “fine as punishment for the offense” to be assessed if the defendant is ultimately convicted of the offense.
4. A statement indicating whether the defendant is required to pay court costs immediately or “in installments during the defendant’s period of probation.”

151

Contents of Written Order

5. A statement indicating whether the defendant may discharge costs by performing community service, attending a tutoring program, or whether the costs are waived.

152

If the Defendant complies

- The court can give the defendant up to 180 days to comply with the order.
- If they comply, the case is dismissed and **SHOULD NOT BE REPORTED TO DPS.**



153

If the Defendant fails to comply (1/2)

- If the defendant fails to comply, court shall notify the defendant in writing that they have failed to comply and shall set a show cause hearing.

154

If the Defendant
fails to comply
(2/2)

If the defendant is
convicted and a “fine
as punishment for the
offense” is assessed,
they get credit
toward that fine for
whatever initial fine
they have already
paid!

155

At the show
cause hearing

- Do not charge the defendant with FTA or VPTA, or report them to Omni if they no-show the show cause
- The Defendant already appeared in the case by pleading guilty or nolo

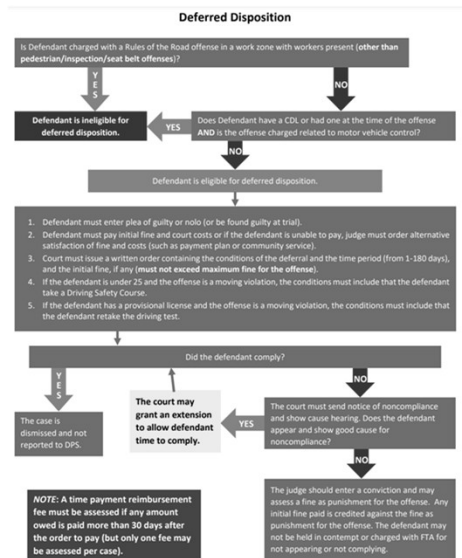
156

Coming Attractions

If the defendant is convicted and subsequently fails to satisfy the judgment, the court may enforce the judgment as usual.

157

DEFERRED DISPOSITION FLOWCHART (CRIMINAL DESKBOOK P. 50)



158

Break out group discussion

Using the Deferred Disposition Flowchart, decide what to do in the following scenarios:

1. Jackie successfully completes a deferred disposition on a speeding case. Should the court report the successful completion and dismissal to DPS?
2. Mathew got a speeding ticket for going 105 mph. Can the court allow him to do a deferred disposition? If so, what conditions should the court impose?

159

Break out group discussion

3. Harold got a speeding ticket. He has an Alabama driver's license so is not eligible for DSC. Can the court give him a deferred disposition? If so, what conditions should the court impose?
4. Julie is given a deferred disposition for a traffic offense. She fails to provide proof of compliance with the conditions of deferral. The court sets a show cause hearing, but she fails to appear. May the court hold her in contempt?

160



161

Compliance dismissals

These statutes provide explicit permission for the court to dismiss an offense without a motion from the prosecutor.

- These usually require proof of correction of the defect or **compliance** with a legal requirement by the defendant.

162

Fees and Pleas

Many of these statutes provide for “reimbursement fees.” Other terms used to be used.

It is not necessary to get a plea from the defendant when dismissing an offense as provided by these statutes.

163

Common compliance dismissals

Transportation Code

- Defendant cited for failing to show proof of insurance, but she shows she had a valid insurance policy at the time of the incident.
- See page 61 of the Criminal Deskbook and the chart on that page

164

Common compliance dismissals

Parks & Wildlife

- Pages 116 – 118 of the Criminal Deskbook and the Chart on page 116.

165

Parent contributing to non-attendance

For offenses committed on or after 9/1/23, notwithstanding any other law, a county, justice, or municipal court shall dismiss a parent contributing to nonattendance case if the parent timely completes the terms of an agreement entered into with the school district under Education Code 25.094.

If agreed to by the school district, the court may extend the time during which a parent may fulfill the terms of the agreement.

166

Parent contributing to nonattendance, part two

- The court **may** (but does not have to) dismiss a charge of Parent Contributing to Non-Attendance on its own if it is in the **best interest of justice** because:
 - There is a low likelihood of repeating the offense, **or**
 - There is 'sufficient justification' for the child's failure to attend school.
- There is no fee or fine and no defect to correct or requirement for the defendant to comply with for this one.

For more information on this type of case, see page 126 of the Criminal Deskbook and Chapter 2 of the Juvenile Deskbook

167

Time for a
Poll

168

Poll Question #10

A prosecutor has to agree to allow a defendant to do a DSC dismissal or deferred disposition, but does not need to be consulted for a court to do a compliance dismissal.

- A. True
- B. False

169

Judgment

170

Judgment

Two Possibilities:

- Judgment of acquittal
- Judgment of conviction

171

Judgment

Judgment of acquittal should be entered if there is a trial, and the defendant is found not guilty

Judgment of Acquittal \neq Dismissal

172

Judgment

Judgment of conviction

- Should be entered every time a defendant pleads guilty or nolo or is found guilty at trial
- Should be reduced to writing.

CCP Art. 45A.251

173

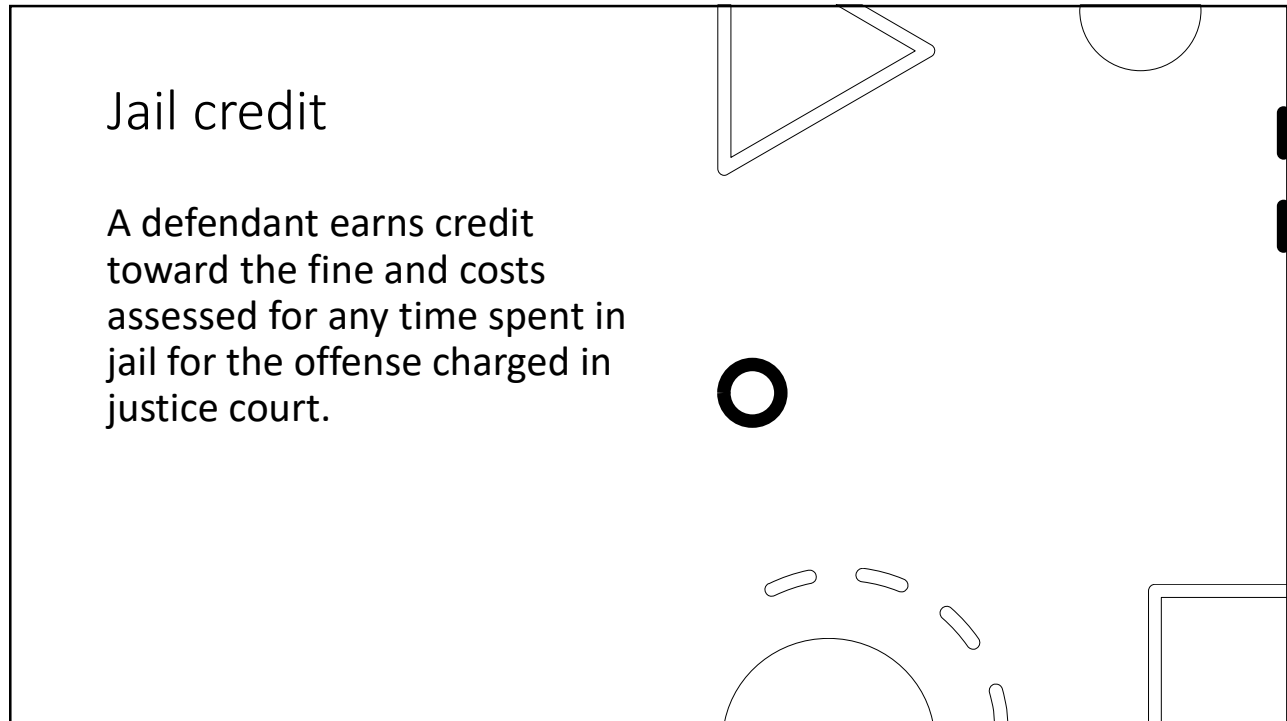
If the defendant is present when judgment of conviction is pronounced, the court must:

Hold a hearing to determine if the defendant is able to pay the fine and court costs if necessary

Consider alternatives to payment in full, such as an installment plan, community service, or waiver of some or all of the fine and court costs.

CCP Art. 45A.252(a)

174



175



176

Jail credit for other offenses

A court must credit a defendant for any time confined in jail as a sentence for another offense if the confinement occurred after the commission of the justice court offense and the conviction in justice court occurred on or after Sept. 1, 2021

- Only applies to time spent in jail as a sentence after conviction (so not after arrest while awaiting trial).
- Minimum of \$150 per day.

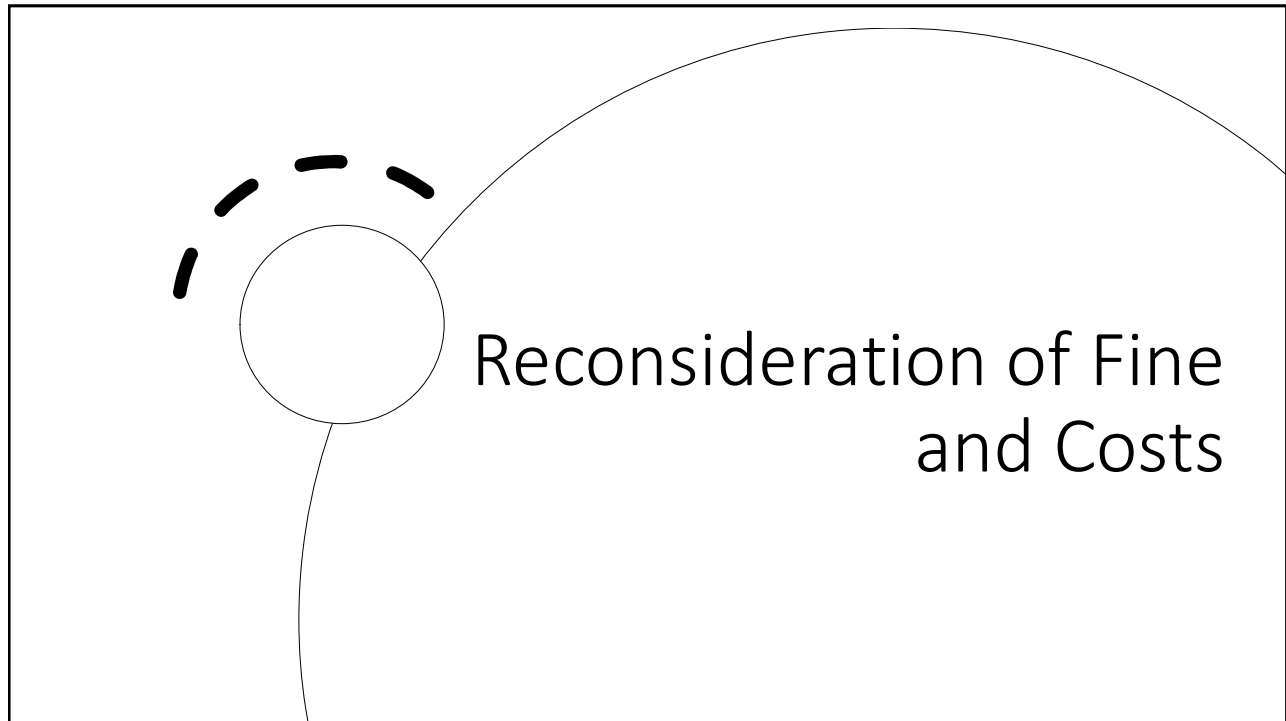
177

Motion for New Trial

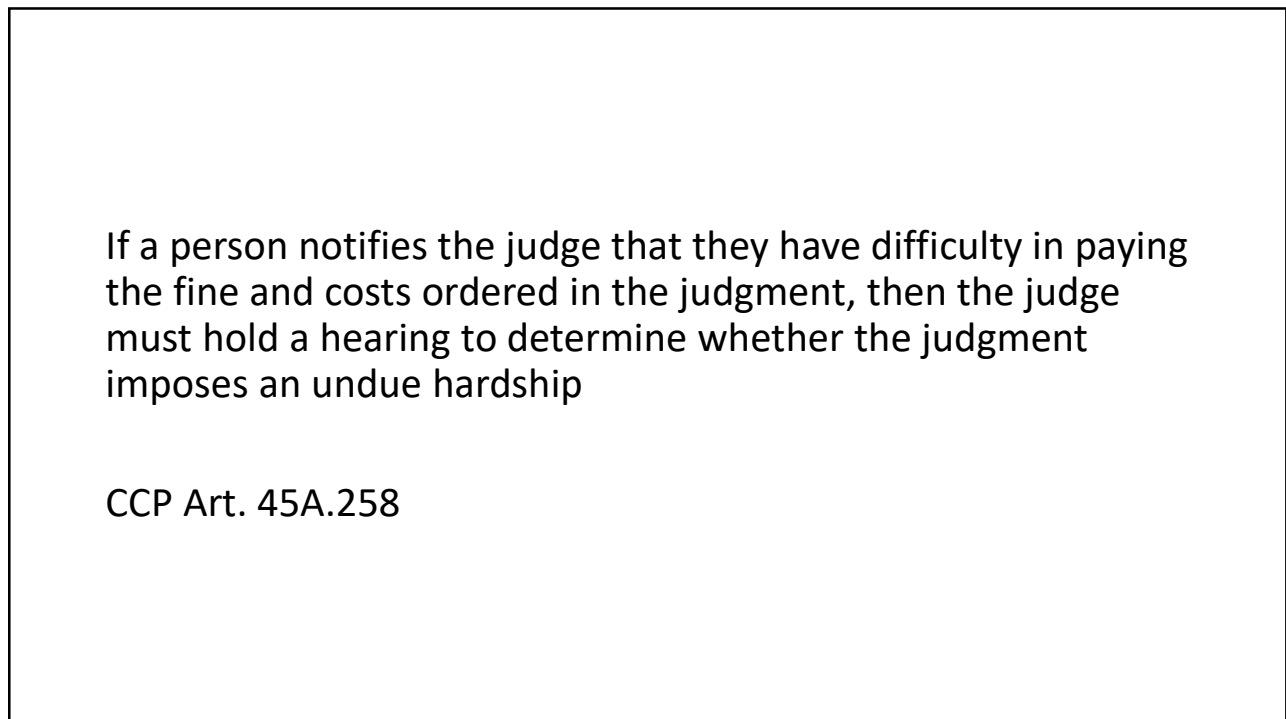
This is a request to set aside a judgment of conviction and let the defendant have a whole new trial in justice court

See page 96 of the Criminal Deskbook

178



179



180

If the judge determines that the judgment imposes an undue hardship, then the judge must consider whether to allow the person to satisfy the fine and costs through one or more of the alternative methods:

- Installment plan
- Community service
- Waiver

CCP Art. 45A.258

181

Time for a
Poll

182

Poll Question #11

Brad is given a deferred disposition but fails to comply with the conditions of deferral. After he fails to appear for a show cause hearing the judge convicts him of the offense and imposes a fine of \$200 and court costs of \$105. The judge does not need to sign a written judgment because it was a deferred disposition.

- A. True
- B. False

183

Poll Question #12

Six weeks later Brad comes to the court and tells a clerk he won't be able to pay his rent if he has to pay \$305. He asks if there is anything he can do? The clerk should:

- A. Tell him it's too late since the court already set a show cause hearing but he failed to show up for it.
- B. Tell him he can talk to the judge, but the fine is the fine.
- C. Set a hearing so he can show that the judgment imposes an undue hardship.

184

Appeal

185

Appeal

The defendant may appeal

- When there is a final judgment of conviction;
or
- Upon mailing a plea of guilty or molo, waiving the right to a jury trial, and asking the court about the amount of the appeal bond.

186

Appeal

How do you file an appeal?

- By filing an appeal bond on time.
- You do NOT have to file a “notice of appeal.”

187

Appeal

How much is the appeal bond?

- No less than double the amount of the fine and court costs adjudged against the defendant.
- Payable to the State of Texas
- Minimum bond of \$50.

188

Appeal

When does the appeal bond have to be filed?

- Within ten days after the judgment was entered

CCP Art. 45A.202

- On or before the 31st day after the defendant receives notice of the appeal bond amount if they mail in a plea of guilty or nolo and request the amount of an appeal bond.

CCP Art. 24.14(b)

189

Appeal

What is the effect of perfecting an appeal?

The defendant gets a trial de novo. That means the defendant gets a whole new trial from scratch.

The justice court judgment is null and void.

190

Time for a
Poll

191

Poll Question #13

Raymond is convicted at trial on Sept. 1 of speeding in a construction zone with workers present. The judge imposes a fine of \$400 (double the normal fine) and court costs of \$110. What is the amount of the appeal bond?

- A. \$400 bond.
- B. \$510 bond
- C. \$1,020 bond
- D. \$800 bond

192

Poll Question #14

Raymond is convicted at trial on Sept. 1 of speeding in a construction zone with workers present. The judge imposes a fine of \$400 (double the normal fine) and court costs of \$110. When does the appeal bond have to be filed?

- A. September 11
- B. October 2
- C. Trick question. It's supposed to be a notice of appeal

193

Enforcement

194

Enforcing criminal judgments

- If someone fails or refuses to satisfy their judgment, a court has many options to “enforce” the judgment

195

PAYMENT ALTERNATIVES

196

Determination of Inability to Pay

Remember: If a defendant is convicted at trial **or** by entering a plea in open court, after assessing the fine and costs, the judge **must** hold a hearing to determine if the defendant is able to immediately pay the fine and costs.

CCP Art. 45A.253

197

Determination of Inability to Pay

And if a defendant is convicted by entering a plea at the clerk window, the clerk **should** inform them that there are alternatives to satisfying the judgment by paying the fine and costs and ask them if they would like a hearing with the judge to determine their eligibility for those alternatives.

198

Determination of Inability to Pay

See the Alternatives to Payment of Fines and Costs form on the TJCTC website (and next slide).

See pages 83 – 87 of the Criminal Deskbook concerning:

- Payment Plans
- Community Service
- Waiver of Fine and Costs
- Jail Credit

199

Alternatives to Payment of Fines and Costs

ALTERNATIVES TO PAYMENT OF FINES AND COSTS

A defendant who is convicted of a criminal offense punishable by fine only is entitled to alternative methods of satisfying the judgment against them if they are unable to pay the fine or costs, in whole or in part.

Those alternative methods include:

- A payment plan, allowing the defendant to make payments toward the fine and costs in designated intervals. Note that if any amount is paid more than 30 days after the judgment assessing the fine or costs then the defendant must be charged a \$15 time payment reimbursement fee.
- Disposition of the amount assessed by performing community service. There are many options that meet the requirements of the law for community service, see the Code of Criminal Procedure Art. 45.049 for full details. A defendant is entitled to a minimum of \$100 credit for every 8 hours of community service performed.
- If performing community service imposes an undue hardship, a defendant who is indigent or who lacks sufficient resources to pay may be entitled to a waiver of the fine and costs, in whole or in part.
- A defendant may be entitled to jail credit in certain circumstances if the defendant was confined in jail or prison after the commission of the offense pending in justice court.

200

COURTESY LETTER

201

Courtesy Letter

Has a defendant not paid by the due date, missed a payment on a payment plan, etc.?

Often a courtesy letter will solve the problem. People forget stuff.

Many courts send one automatically before moving on to other options.

202

POST-JUDGMENT REFERRAL TO COLLECTIONS

203

Post-Judgment Collections

Defendant may be referred to collections if any amount is **60 days** past due.

A 30% fee is added to all amounts **paid** on cases referred to collections.

The fee is not added for cases disposed of by jail credit or community service.

CCP Art. 103.0031

204

POST-JUDGMENT REPORTING TO OMNI

205

Post-Judgment
Omni

Courts may report a defendant to Omni to block renewal of their driver's license if they fail to satisfy a criminal judgment.

We discussed this pre-judgment.

See page 91 of Criminal Deskbook

206

CAPIAS PRO FINE

207

Capias Pro Fine

A **capias pro fine** is an order to have a defendant arrested and **brought to the court** to determine why they have not satisfied the judgment.

A capias pro fine **must not** be issued before the defendant is sent a notice of failure to satisfy the judgment and a **show cause hearing** is set for the defendant to explain why they have not satisfied the judgment.

See flowchart on page 93 of Criminal Deskbook

208

Show Cause – If Defendant Appears

If the defendant **appears at the hearing**, the court should determine why they have not satisfied the judgment, and the court could:

- grant a payment plan,
- grant community service,
- waive all or part of the fine and costs; or
- enter an order of commitment, requiring defendant to lay out the fine/costs in jail (more on requirements for this coming up).

209

Show Cause – If Defendant Does Not Appear

If the defendant **fails to at the hearing**, the court may issue the *capias pro fine*

210

When the Capias Pro Fine is Executed

When defendant is brought before the court, the judge disposes of the capias pro fine by holding a hearing and:

- granting time served,
- granting a payment plan,
- granting community service,
- waiving fines and costs in full or in part, or
- when appropriate, by entering an order of commitment (more info on requirements for this coming up).

211

Recall Capias Pro Fine

The Court must recall a capias pro fine if, before the capias pro fine is executed, the defendant voluntarily appears and resolves the amount owed.

212

ORDER OF COMMITMENT

213

Order of Commitment

- Sometimes, it may be appropriate to order a defendant committed to jail to “lay out” the fine and costs
- However, ordering someone to jail to lay out the fine and costs because they are too poor to pay is referred to as “**debtor’s prison**” and violates the United States Constitution. (*Tate v. Short*, 401 U.S. 395 (1971))

214

Findings

An order of commitment may **only** be issued if the judge first finds **in writing** that the defendant:

- Is **not indigent** and has failed to make a good faith effort to pay, **or**
- **Is indigent**, was given the chance to do community service, failed to do community service, **and** could have done community service without **any undue hardship**.

CCP Art. 45A.261

215

Amount of Credit for Time Served

The defendant gets a minimum of \$150 per unit of time, which the judge can set at not less than 8 and no more than 24 hours.

For example, the judge could say that the judge earns \$200 for every 12 hours spent in jail

CCP Art. 45A.262

216

Time for a
Poll

217

Poll Question #15

Before a defendant can be reported to Omni for failure to satisfy a judgment, the court must first hold a Show Cause Hearing.

- A. True
- B. False

218

Poll Question #16

A defendant can never be ordered to lay out their fine in jail if they are indigent.

A. True

B. False

219

Poll Question #17

If a defendant fails to pay their fine and court costs, the court should immediately issue a capias pro fine to have them arrested.

A. True

B. False

220

Poll Question #18

The court issued a *capias pro fine* but the defendant comes to court before he is arrested to resolve the fine and court costs. The court should:

A. Have the defendant wait until a constable can come by to arrest him by executing the *capias pro fine*.

B. Recall the *capias pro fine* if he is able to resolve the fine and court costs either by paying or agreeing to alternatives acceptable to the judge (such as a payment plan or community service)

221

A little juvenile law

222

Fine-Only Misdemeanors Committed by Children

Fine-only misdemeanors committed by children may be handled as criminal cases in justice court.

- Otherwise, must be filed as “non-criminal” case in juvenile court.

“**Child**” = a person who is at least 10 and has not yet turned 17.

- Someone under 10 cannot be held responsible in court for their conduct, they are legally an “**infant**.”
- If the offense occurred when the person was under 17, but they have since turned 17, they are still legally treated as a child.

FC §51.02(2), CCP Art. 45A.453(a)

223

Discretionary Transfer to Juvenile Court

Any criminal case other than a **traffic offense may** be transferred to juvenile court from the justice court.

If the case **is** transferred:

- Issue a written order to transfer.
- Forward the criminal complaint & all other case documents to the juvenile court.
- The juvenile court will process the referral as a CINS case.
 - (Conduct Indicating a Need for Supervision)

If the case **is not** transferred:

- Send notice of the complaint and a copy of the final disposition to the juvenile court.

Family Code §51.08(a), (c)

224

Mandatory Transfer to Juvenile Court

Fine-only, non-traffic misdemeanors **must** be transferred to juvenile court **if**:

- 2 or more previous fine-only, non-traffic misdemeanor convictions and the justice court does not have a **juvenile case manager**.
 - (see Chapter 9 of Juvenile Deskbook for info on JCMs)

or

- Any court has previously dismissed a complaint against the child on grounds of mental illness, disability, or lack of capacity under Penal Code §8.08.

Family Code §51.08

225

Juvenile Diversion, slide 1

Code of Criminal Procedure Ch. 45, Subchapter E

Applies only to an offense committed on or after 1/1/25.

Each justice and municipal court shall **implement** a youth diversion plan no later than 1/1/25. (So need to start on it now!)

Applies only to a child (under 17 at time of offense) who is alleged to have engaged in conduct that constitutes a misdemeanor punishable by fine only, other than a traffic offense.

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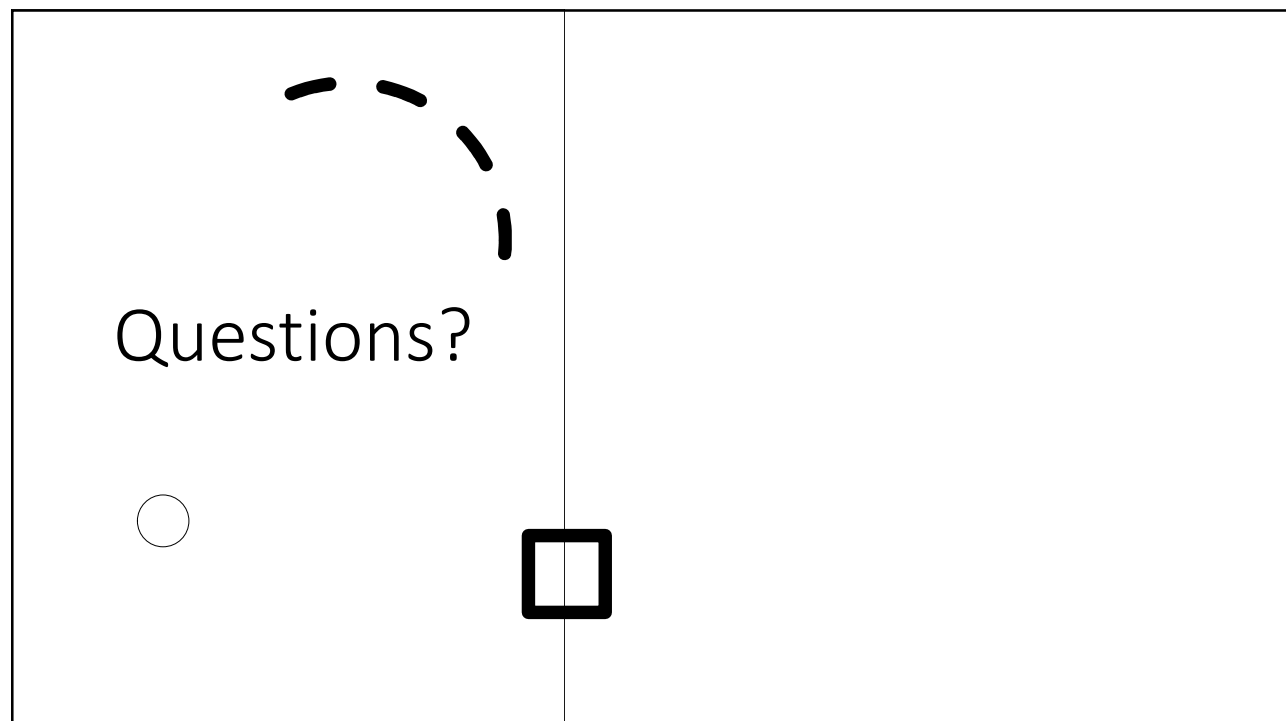
Juvenile Diversion, slide 2

If eligible, the child must be given diversion option in lieu of prosecution.

Can be offered at various points during the case depending on the situation).

- For more information:
 - TJCTC's *Juvenile Deskbook*, once revised
 - TJCTC's *Juvenile Criminal Diversions* recorded webinar: <https://www.tjctc.org/onlinelearning/webinars.html>

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