

7.02 *Judicial Determination.*

The judge presiding over a criminal case may replace appointed counsel after entering written findings in the record showing good cause for the replacement and no prejudice to the defendant, including, without limitation:

(a) current information about the defendant and charges indicates that counsel of different qualifications is appropriate for the defendant under these rules; or

(b) replacement of appointed counsel in a death penalty case is required under Article 26.052(e) of the Code of Criminal Procedure.

7.03 *Defendant Request.*

The judge presiding over the trial court proceedings in a criminal case may replace appointed counsel at the defendant's request if:

(a) the defendant requests an attorney other than trial defense counsel for appeal or post-conviction *habaes corpus* proceedings; or

(b) the defendant shows good cause for replacing appointed counsel, including counsel's persistent or prolonged failure to communicate with the defendant.

7.04 *Appointing Replacement Counsel.*

Whenever appointed counsel is replaced under this Rule, replacement counsel immediately shall be selected and appointed in accordance with the procedures described in Rules 4,5, and 6.

Rule 8. Attorney Fee Schedule and Compensation of Appointed Attorneys

8.01 *Fee Schedule.*

The county will pay appointed counsel for all time reasonably necessary for adequate representation of the defendant, as approved by a judge, according to the following fee schedule adopted as provided under Article 26.05(b) of the Code of Criminal Procedure:

SCHEDULE OF ATTORNEY FEES AND EXPENSES

ORDER

BE IT REMEMBERED that on the 22nd day of August, A.D. 2001, the Judges of the County of Brazoria, pursuant to Art.26.05, C.C.P., as amended, adopted the following fee schedule for payment of attorneys appointed to represent indigent defendants in adversarial judicial proceedings:

MISDEMEANORS

Guilty Plea. \$100.00 minimum

Preparation, pre-trial, trial
and appeal. \$60.00 to \$90.00 hourly

FELONIES

Guilty Plea. \$100 minimum

Preparation, pre-trial, trial
and appeal. \$60.00 to \$90.00 hourly

CAPITAL FELONIES

Preparation, pre-trial, trial
and appeal. \$90.00 to \$125.00 hourly

It is further ORDERED that reasonable expenses incurred for purposes of investigation and expert testimony are reimbursable only with prior approval of the Court.

It is further ORDERED that all statements for services rendered in excess of six (6) hours submitted by an appointed attorney, shall be itemized as to time.

Appointed attorneys shall be paid for all documented out-of court and in-court-time that is actually spent on the case that reasonable professionals would agree was objectively necessary for a qualified criminal defense attorney in the community to represent the client.

8.02 *Judicial Determination of Attorney Compensation.*

The judge presiding over the case for which the appointed attorney seeks compensation will use the following procedures to review and approve the appropriate compensation:

- (a) The appointed counsel must submit to the presiding judge a form approved by the judges for itemizing the services performed.
- (b) The presiding judge hearing a motion under this Rule will either approve the amount requested or enter written findings stating the amount of payment that the judge approves and each reason for approving an amount different from the requested amount.
- (c) An attorney whose request for payment is disapproved may appeal the disapproval by filing a motion with the presiding judge of the administrative judicial region, as provided under Article 26.05(c) of the Code of Criminal Procedure.
- (d) The county will reimburse appointed attorneys for investigation and expert witness expenses incurred on behalf of an indigent client as provided under Articles 26.05(d) and 26.052(f) - (h) of the Code of Criminal Procedure.

These Local Rules of Administration were approved by a majority of the judges trying criminal cases in Brazoria County at a meeting held on December 5, 2001, after proper notice, and will be reported as provided in Section 71.0351 of the Government Code.

Attest: J. Ray Bayless
ACTING Administrative District Judge for Brazoria County