



Issue:

Creating a handout containing information for indigent defendants.

Procedure: Create a one-page document, briefly detailing processes available for defendants who cannot immediately pay the full judgment amount assessed.

Considerations:

- Indigent defendants must be provided with alternate means of payment.¹ Some courts allow all defendants a 30 or 31 day extension by standing order, and many have standing orders regulating standard payment plans available.²
- The court is the final arbiter of indigence.³ There is no legal standard under Texas law, but each court must make such determinations under many circumstances (e.g., prior to commitment, prior to waiving fees, etc.).
- The court may inform defendants of options in a pamphlet or handout , to avoid assigning this repetitive task to clerks. Naturally, the pamphlet must not include any legal advice (clerks can't give legal advice⁴), but can contain appropriate information.
- TMCEC has provided a sample form,⁵ which courts may use and adapt to the court's particular practice and standard of indigency.

Authority

1. *Tate v. Short*, 401 U.S. 395 (1971)
2. Standing orders are a common law concept, not explicitly codified in Texas law. In *Wilkerson v. State*, 681 S.W.2d 29 (Tex. Crim. App. 1984), the court acknowledged a standing order issued by a trial court, without suggesting it was other than appropriate. For more information on court rule-making in Texas, see Bruce L. Dean, *Rule-Making in Texas*, 20 St. Mary's L.J. 139 (1988).
3. See, e.g., Articles 45.049, 45.0491 and 45.0492, Code of Criminal Procedure
4. Section 81.101, Government Code.
5. See TMCEC Forms Book, *Chapter XIII: Indigence, Community Service, Jail Credit, & Payment Plans*, "Application for Time Payment, Extension or Community Service."