

## Indigency and Commitments

Mark Goodner  
Deputy Counsel and Director of Judicial Education  
TMCEC

---

---

---

---

---

---

---

---

## BuzzFeedNEWS

THEIR CRIME:

**Being Poor.**

THEIR SENTENCE:

**Jail.**

### Lawsuit Claims Austin Illegally Jails Poor People

A federal class action suit filed Tuesday morning claims that Austin's municipal court locks people up for unpaid petty fines without properly assessing whether they can afford to pay.

---

---

---

---

---

---

---

---

Levi has been stopped 5 separate times for traffic issues and faces multiple charges, including expired registration, no insurance, and failing to stop at a stop sign, and up to \$3,400 in fines, fees, and costs. Levi does not show up to answer to these charges and you issue warrants for his arrest. After his arrest, he is brought before you. He pleads no contest, but says he does not have the money to pay.

---

---

---

---

---

---

---

---

Can you commit the person to jail for 3 weeks to discharge the fine?

---

---

---

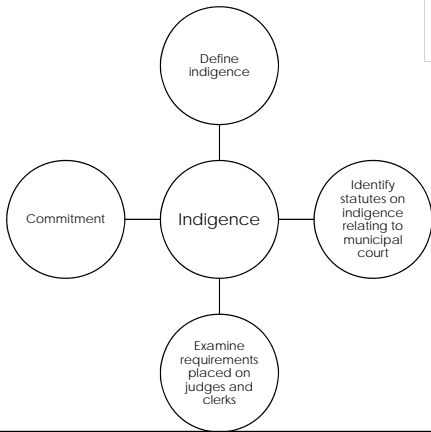
---

---

---

---

---



---

---

---

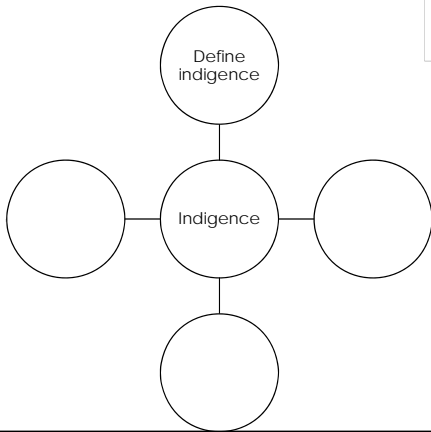
---

---

---

---

---



---

---

---

---

---

---

---

---

## Define Indigence

Code Crim Procedure (C.C.P.) Art. 1.051(b)

Indigent: 'not financially able to employ counsel'

---

---

---

---

---

---

---

---

## Define Indigence

Local Government Code(L.G.C.) Sec. 133.002(2)

Indigent: 'earn not more than 125 per cent of the income standard established by applicable federal poverty guidelines'

Person in Household	2015 Guideline	125%
1	\$11,770.00	\$14,712.50
2	15,930.00	19,912.50

\$980.83 a month  
\$6.13 an hour

---

---

---

---

---

---

---

---

## Define Indigence

Transportation Code (T.C.) Sec. 708.158(b)

Indigent if "provide listed evidence to the judge who convicted of offense that triggered surcharge:"

- Tax income not exceed 125% poverty guideline
- Wages not exceed 125% of poverty guideline
- Receive federal, state, or school assistance

---

---

---

---

---

---

---

---

# Define Indigence

Dictionary

- Poverty; neediness
- A state of extreme poverty or destitution
- Lacking necessities of life, as food, clothing
- Impoverished
- Extremely poor

---

---

---

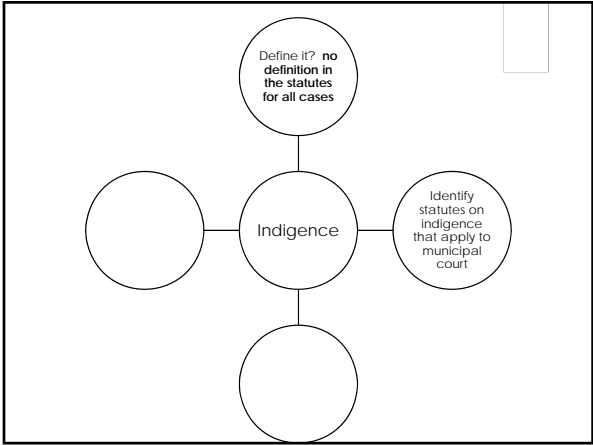
---

---

---

---

---



---

---

---

---

---

---

---

---

# Indigency statutes apply to municipal court

C.C.P. Art. 15.17(a)

Magistrate shall admonish prisoner of right to counsel if unable to employ (other than Class C)

---

---

---

---

---

---

---

---

Indigency statutes apply to municipal court

C.C.P. Art.15.18(a)(2)

Magistrate **SHALL** arraign out of county prisoner on Class C and take bail or accept plea, determine indigence, or discharge

C.C.P. Art. 45.023(c)

Judge, after jury trial and Art. 15.17 warning to prisoner, **MAY** take a plea, set fine, determine indigence, or discharge

---

---

---

---

---

---

---

---

Indigency statutes apply to municipal court

C.C.P. Art. 1.051(c)

Indigent defendant entitled to have attorney appointed if interest of justice requires representation (not financially able to employ counsel)

C.C.P. Art. 45.041(b-2)

If defendant unable to pay fine and costs immediately, judge shall allow payment "in specified portions at designated intervals"

---

---

---

---

---

---

---

---

Indigency statutes apply to municipal court

C.C.P. Art 45.049(a)

Defendant may discharge fine or costs by community service, if:

1. Failed to pay fine, OR
2. Insufficient resources or income to pay

---

---

---

---

---

---

---

---

Indigency statutes apply to  
municipal court

C.C.P. 45.0491

If no community service, judge may waive fine or costs if:

- 1. Defendant is indigent, and  
Discharge by community service will impose an undue hardship, OR
- 2. Defendant was child at offense, and  
Discharge by community service, or tutoring, will impose an undue hardship

---

---

---

---

---

---

---

---

Indigency statutes apply to  
municipal court

C.C.P. Art. 45.046(a)

Judge, after hearing, may commit to jail if determine in writing:

- (1) Defendant is **not indigent** and not made good faith effort to discharge: **or**
- (2) Defendant **IS indigent**, did not make a good faith effort **AND** could have discharged by community service without any undue hardship

Certified copy of signed judgment, sentence, and commitment order are sufficient to authorize confinement

---

---

---

---

---

---

---

---

Indigency statutes apply to  
municipal court

C.C.P. Art 45.048(a)

One jailed for not paying SHALL be discharged on habeas corpus if "too poor to pay fine and costs"  
(If court of record)

---

---

---

---

---

---

---

---

## Indigency statutes apply to municipal court

C.C.P Art 1.051(d(4)

Eligible indigent is entitled to have a trial court appoint attorney on appeal if 'interests of justice require representation'

(not financially able to employ attorney)

Texas Rules Appellate Procedure 20.2

If cannot pay or give security for appellate record, judge must order court reporter to transcribe at no cost

---

---

---

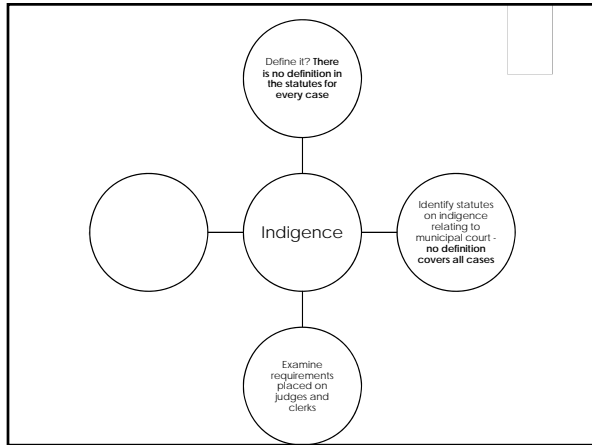
---

---

---

---

---



---

---

---

---

---

---

---

---

## When should indigence be considered?

C.C.P. Art 15.18(a)(2) - Magistrate take out-of-county plea

C.C.P. Art 45.023 (c) - Judge take plea in jail

C.C.P. Art 1.051(b)- Defendant request appointed counsel on case pending in municipal court

---

---

---

---

---

---

---

---

## When should indigence be considered?

C.C.P. Art. 45.049(a) – "Insufficient resources or income" to allow community service

C.C.P. Art. 45.0491- Waive community service if will be undue hardship on indigent

Show cause hearing if no payment

C.C.P. Art 45.046(a) - Before commitment on a capias pro fine

---

---

---

---

---

---

---

---

## When should indigence be considered?

T.C. Sec. 708.158(a)

Person assessed DPS surcharge returns to municipal court and "provides evidence listed" that is indigent

Subsection (b) – Person must provide documents to a court in which one was convicted of the offense that is the basis for surcharge

Department of Public Safety shall waive all surcharge assessed after Sept 1, 2011, if indigent

---

---

---

---

---

---

---

---

## When should indigence be considered?

T.C. Sec. 708.158 (b) requires person to provide court:

- Most recent federal income tax return not exceed 125% income level
- Most recent statement of wages not exceed 125% income level,

-Federal or state agency, or school district assistance (or one claiming a dependent) from:

- Texas food stamp or financial assistance program,
- Federal special supplemental nutrition program for women,
- Texas medical assistance program,
- Texas child health plan program, OR
- National free or reduced-price lunch program

---

---

---

---

---

---

---

---



## When should indigence be considered?

" Income not exceed 125% of income level of federal poverty guidelines"

2015 federal poverty guidelines:

Person in Household	Guideline	125%
1	\$11,770.	\$14,712.50
2	15,930.	19,912.50

**\$980.83 per month    \$6.13 per hour**

---

---

---

---

---

---

---

---

## When should indigence be considered?

Tex Gov Code Sec. 71.035(b), Tex Admin Code Sec. 171.1  
Monthly Report to OCA - Additional Activity Section

Cases: fine & costs waived by community service

Cases: fine & costs waived by tutoring (child)

Cases: fine and costs waived for Indigency

Amount of fines and costs waived for Indigency

---

---

---

---

---

---

---

---

## When should indigence be considered?

926 Texas municipal courts annual reports:

	<u>2013-14</u>	<u>2012-13</u>
Cases where indigent	21,243	22,920
Fine & costs waived	\$4,751,915.	\$5,071,941.

---

---

---

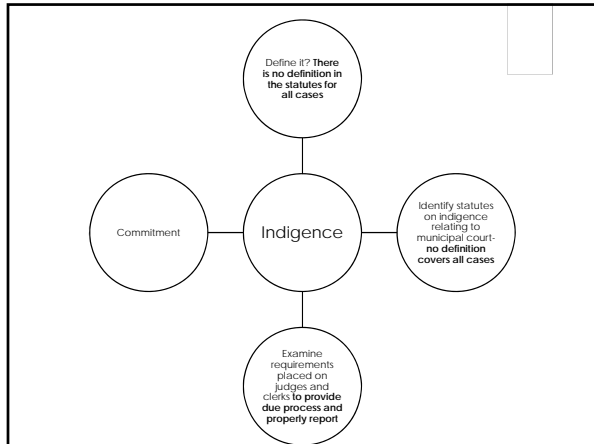
---

---

---

---

---




---

---

---

---

---

---

---

---

### Indigence hearing - factors to consider

- Income amount and source  
Wages, investment, bank account, child support, social security, disability, federal benefits, assets, property, loan
- Expenses  
Number and age of dependents, rent/mortgage payment, debts - car note, credit card, personal expense, family illness/incapacity  
Ability to work  
Spouse's financial condition

Factors NOT to consider

- Financial resources of parents and other relative
- Exempt property including homestead and vehicle
- Attitude

---

---

---

---

---

---

---

---

### Steps Leading Up to Commitment on Capias Pro Fine

1. Appearance	5. Arrest on CPF
2. Plea	6. Commitment Determination Order (Art. 45.046)
3. Final Judgment	7. Commitment
4. Capias Pro Fine (not the same as a "Capias")	

---

---

---

---

---

---

---

---

Commitment Order, Art.  
45.046(a), C.C.P.

- ▶ Judges, before committing a defendant to jail, to conduct a hearing and make a **written determination** that:
  - ▶ A defendant is **not indigent** and has failed to make a good faith effort to discharge the fine and costs, OR
  - ▶ A defendant is **indigent** AND:
    - ▶ Has failed to make a good faith effort to discharge the fine and costs under Article 45.049 (perform community service), AND
    - ▶ Could have discharged the fines and costs under Article 45.049 (perform community service) without experiencing any undue hardship.

---

---

---

---

---

---

---

---

At the Hearing:

- ▶ Document the determination
- ▶ A certified copy of the judgment, sentence, and order are sufficient to authorize confinement of a defendant.

---

---

---

---

---

---

---

---

Commitment Order, Art.  
45.046(a), C.C.P.

- ▶ A judge may find that a defendant is **indigent** and made a good faith effort to discharge by community service but was unable to perform community service without experiencing any undue hardship.
- ▶ If so, a judge should sign a written order fully discharging the fine and costs and notify a jailer in writing to immediately release the defendant..

---

---

---

---

---

---

---

---

Levi has been stopped 5 separate times for traffic issues and faces multiple charges, including expired registration, no insurance, and failing to stop at a stop sign, and up to \$3,400 in fines, fees, and costs. Levi does not show up to answer to these charges and you issue warrants for his arrest. After his arrest, he is brought before you. He pleads no contest, but says he does not have the money to pay.

---

---

---

---

---

---

---

---

Can you commit the person to jail for 3 weeks to discharge the fine?

---

---

---

---

---

---

---

---

Would the options be different if you saw Levi after issuing a *capias pro fine*?

---

---

---

---

---

---

---

---

What is the best way to handle this?

---

---

---

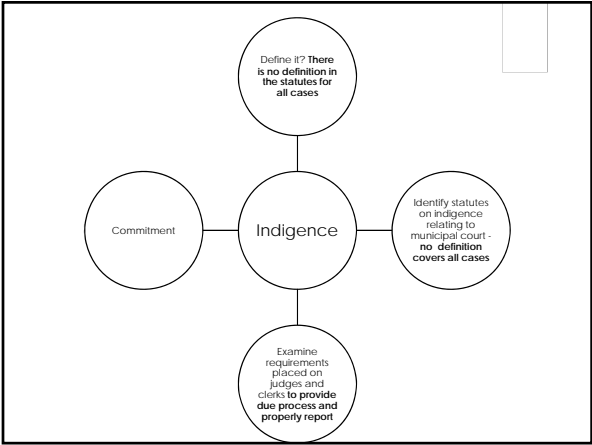
---

---

---

---

---



---

---

---

---

---

---

---

---

Questions?

Thank you for your attention

---

---

---

---

---

---

---

---

## Indigency

The number of people living in poverty in America in 2013 was 14.5 per cent, or an estimated 45.3 million people (U.S. Census Bureau, September 6, 2014). In Texas, 17.4 per cent, or an estimated 4.6 million, people were reported living in poverty in 2013.

Because of the number of people living in poverty, a municipal judge may hear claims of indigence at various times in the court process. The Code of Criminal Procedure (C.C.P.) refers to “indigency” and “indigence.” C.C.P. does not define indigence for all situations; nor does it have guidelines for a municipal judge who has to make a determination. Just because a defendant says, “I can’t pay,” does not mean that that person is indigent. A person’s financial situation may change: one who may be considered well-off when a citation was issued may be indigent when payment is due. This paper lists stages in the court process a judge may need to determine if a defendant is indigent with the statute for that situation. A chart of the Texas statutes relating to municipal courts and indigency is included in the Appendix. This paper also lists factors a judge may consider at a hearing to determine whether a person is indigent.

### Code of Criminal Procedure Sections

#### Magistrate Functions

A municipal judge may act as a magistrate performing functions under C.C.P. Art. 15.17(a). This article requires a magistrate to: 1) admonish an accused of the right to appointed counsel if the accused **cannot afford counsel**; 2) explain the procedure and ask an accused if he or she requests counsel be appointed; and 3) document whether an accused requests appointment of counsel. This applies to one in custody for a felony or a misdemeanor punishable by confinement. If a municipal judge, as a magistrate, is not authorized to appoint counsel for an indigent person, C.C.P. Art 26.04 lists the procedure to transmit the forms requesting appointment of counsel to a court or courts’ designee authorized to appoint counsel in that county. Indigency is defined in C.C.P. Art. 1.051(b) as it relates to Art. 15.17(a).

#### Out of County offense

A judge, as magistrate, may arraign a person arrested on a Class C misdemeanor from a different county. C.C.P. Art. 15.18 (a) (2) provides that for a person arrested on an out-of-county warrant for an offense punishable by fine only, a magistrate SHALL: take bail OR accept a written plea of guilty or nolo contendere, set a fine, determine costs, accept payment of the fine and costs, give credit for time served, **determine indigency**, or on satisfaction of the judgment, discharge the defendant. A magistrate shall before the 11<sup>th</sup> business day transmit to the court having jurisdiction the written plea, orders entered, or fine or costs collected in the case. Indigency is not defined in this article.

#### Case pending in Municipal Court

A judge, as magistrate, may arraign a person in custody charged with a Class C misdemeanor. Effective September 1, 2013, C.C.P. Art. 45.023(c) allows that AFTER giving the Article 15.17 warning AND advising of the right to a jury trial, a judge MAY, as appropriate: 1) accept a defendant’s plea; 2) assess a

fine, determine costs, and accept payment of the fine and costs; 3) give a defendant credit for time served; 4) determine whether a defendant is **indigent**; OR 5) discharge a defendant. This may be a defendant who is arrested for an on-view offense or on a capias warrant after receiving a citation and failing to appear in court. In this article, indigent is not defined.

Under C.C.P. Art. 45.023(d), if a motion for new trial is filed no later than 10 days after rendition of judgment, a judge SHALL grant a new trial. Art. 45.023(c) does not apply to the arraignment of a person in custody on a capias pro fine warrant (after a plea with a sentence and a fine that a defendant failed to pay).

#### Request for Appointed Counsel on a pending case – Indigency Defined

C.C.P. Art. 1.05 sets out the rights of an accused: “a defendant in a criminal matter is entitled to be represented by counsel in an adversarial judicial proceeding.” A defendant who appears in municipal court may request a court-appointed attorney. C. C. P. Art. 1.051(b) defines “indigent,” as “a person not financially able to employ counsel.” C.C.P. Art. 1.051(c) provides that: “an **indigent** defendant is entitled to have an attorney appointed to represent him”:

-“In any adversary judicial proceeding that may result in punishment by confinement,” AND

-“In any other criminal proceeding if the court concludes the interests of justice require representation.”

A defendant who requests counsel should be told what the statute allows. If a defendant insists on a court-appointed attorney, a defendant should be given an opportunity to be heard. After a judge makes a determination, a written finding should be signed. [This paper does not address a process for payment of a court-appointed attorney].

#### Payment after Judgment

The 14<sup>th</sup> Amendment requires that a defendant convicted of a fine-only offense must be provided an ‘alternative means’ (time payment or community service) to discharge a judgment to avoid incarceration. Tate v. Short, 401 U.S. 395 (1971). C.C. P. Art. 45.041(b-2) provides that after a plea or finding of guilt, if a judge determines that the ‘**defendant is unable to immediately pay the fine and costs,**’ a judge shall allow a defendant to pay in specified portions at designated intervals. A defendant who enters a plea or is found guilty may pay the court in the manner specified in the judgment:

- a. The entire fine and costs when sentenced is pronounced,
- b. The entire fine and costs at some later date, or
- a. A specified portion of the fine and costs at designated intervals

A judge must allow a defendant to pay the fine and costs in designated intervals and may not automatically convert a fine and costs into a jail term solely because a defendant cannot immediately pay.

If a defendant is unable to pay the full fine and costs at the plea and sentencing, a court may require a defendant to complete a sworn Application for Time Payment, Extension, or Community Service. An Application is included in the Appendix. A court clerk can verify the information given.

A decision that a defendant is unable to pay at sentencing is not a finding of indigency- but only that a defendant cannot pay now - maybe due to pay day being the next week or maybe a bonus, commission, or refund is to be paid soon. Allowing a defendant to pay later is more a convenience to a defendant than finding a defendant to be indigent. The granting of an extension of time to pay is a judicial function and may not be assigned to a clerk.

#### Community Service to Satisfy Fine or Costs

1. C.C.P Art. 45.049(a) allows that if a defendant “**fails to pay a previously assessed fine or costs,**” a judge MAY require a defendant to discharge all or part of the fine or costs by performing community service. A judge using this article does not make a finding of indigency – only that a defendant has not paid the assessed fine and costs. This determination should be documented within the order requiring community service to discharge a fine or costs. The case can be scheduled to a later date for a defendant to show the court proof that community service was completed.

2. C.C.P Art. 45.049(a) also allows that if a defendant is **determined by the judge to have ‘insufficient resources or income to pay fine or costs,’** a judge MAY require a defendant to discharge all or part of the fine or costs by performing community service. This determination should be documented within the order requiring community service to discharge the fine or costs. The word “indigent’ is not used in this article, although the words “insufficient income or resources to pay” evoke thoughts of indigency.

In either situation, if proof of completion of community service is later provided, the case should be closed with the fine and costs satisfied due to community service performed. A Community Service Order is included in the Appendix. Other than these situations, community service cannot be performed in lieu of paying a fine; a defendant with an ability to pay must pay with money.

#### Community Service Waived

1. The legislature has recognized that requiring community service may create an undue hardship on a defendant. C.C.P. Art. 45.0491, *Waiver of Payment of Fines and Costs for Indigent Defendants and Children*, allows a judge in two circumstances to waive the payment of a fine or costs. A municipal judge MAY waive payment of a fine or costs for one who defaults in payment if a judge determines that: 1) the defendant is **indigent**, AND 2) discharging the fine and costs under Art 45.049 (performing community service), would impose an undue hardship on a defendant. Indigency is not defined in this article, although a judge makes a determination that the defendant is “**indigent.**” A judge must find both a defendant is indigent and that performing community service will impose an undue hardship on the defendant.

2. C.C.P. Art. 45.0591 also applies if a defendant was a child (at least 10 but less than 17 years of age) at the time of offense. If a child defaults in payment, C.C.P. Art. 45.0491 allows a judge MAY waive fine OR costs if a judge determines: 1) that a defendant was a child at the time an offense was committed, AND 2) to discharge the fine and costs under Art. 45.049 (performing community service) “or as otherwise authorized by this chapter” would impose an undue hardship on a defendant. The “otherwise authorized by this chapter” refers to C.C.P. 45.0492, (allowing a child charged with an offense occurring in a school



building or on school grounds a child attends to discharge all or part of a fine or costs by performing community service or attending a tutoring program). A judge does not determine that a child is indigent.

In either situation, the determination should be documented in a written order. The requirement to perform community service (or tutoring) is waived, the fine or costs are waived, and the case is closed with the fine and costs waived due to indigency or tutoring. A Waiver of Payment of Fine and Costs for Indigent Defendants and Children is included in the Appendix.

C.C.P. Art. 45.0491 does not define “hardship.” Webster’s dictionary defines hardship as: “something that causes or entails suffering or privation.” The statute requires that the hardship be ‘undue.’ A judge must find both that a defendant is indigent (OR was a child at the commission of the offense), AND that an undue hardship would be imposed upon a defendant ordered to perform community service (or tutoring).

#### Opportunity for Show Cause Hearing if fail to pay

C.C.P. Art 45.051(c-1), Deferred Disposition, and C.C.P. 45.0511(I), Driving Safety Course, require a municipal judge to set a case for a Show Cause hearing if a defendant fails to provide proof of compliance. A judge may set a policy that if a defendant fails to pay the assessed fine and costs, a court clerk will mail a Show Cause notice to the defendant to appear. This notice can inform a defendant that, if not paid in full, the fine and costs may be discharged by performing community service.

A defendant, upon receiving the notice, may immediately pay the full fine and costs. A defendant may appear at the Show Cause hearing, make partial payment, and request time to pay the balance; if so, a judge may order a defendant to pay later. A judge may determine that a defendant has insufficient resources or income to pay and may require community service to discharge the fine or costs.

After a Show Cause hearing, a judge may find that a defendant **is indigent** but wants to discharge the fine and costs by performing community service; if so a judge may require community service to discharge the fine or costs. A defendant may provide proof that he or she is **indigent** and that performing community service would impose an undue hardship. If a judge makes this determination, a written order waiving the fine or costs should be entered. If a defendant given a chance to appear at a Show Cause hearing fails to appear, a *capias pro fine* warrant may be issued for a defendant’s arrest. This defendant has at least been given an opportunity to pay in intervals or at a later date or discharge by community service before arrest.

#### Commitment after Fail to Pay Fine and Costs

If a defendant fails to pay in full, C.C.P. Art 45.046(a) applies if the person is placed in custody on a *capias pro fine* warrant. After conducting a hearing and making a written determination, a judge MAY order a defendant confined to jail until discharged by law if the judge determines that:

1. A defendant is **not indigent** and has failed to make a good faith effort to discharge the fine and costs, OR

2. A defendant **is indigent** AND:

- a. Has failed to make a good faith effort to discharge the fine and costs under Article 45.049 (perform community service), AND
- b. Could have discharged the fines and costs under Article 45.049 (perform community service) without experiencing any undue hardship.

Subsection Number 1 requires finding a defendant failed to ‘make a good faith effort to discharge the fine and costs,’ with no mention of community service. Subsection Number 2 refers to failing to make a “good faith effort to discharge a fine and costs under Article 45.049” (performing community service). A judge must find that a defendant could have discharged the fines and costs by performing community service without experiencing **any** undue hardship. This language is different than Article 45.0491 that allows a judge may waive a fine and costs if performing community service would “impose an undue hardship.”

A judge who commits a defendant to jail must document this determination in writing. An Order of Commitment is included in the Appendix. A certified copy of the judgment, sentence, and order are sufficient to authorize confinement of a defendant. A defendant may appear before a judge in person or by means of an electronic broadcast system with an image of the defendant presented to the court. A judge may find that a defendant is **indigent** and made a good faith effort to discharge by community service but was unable to perform community service without experiencing any undue hardship. If so, a judge should sign a written order fully discharging the fine and costs and notify a jailer in writing to immediately release the defendant. This information must be given to a court clerk who can close the case with the fine and costs waived due to indigency. Although a judge may find a defendant indigent, indigent is not defined in this article.

#### Habeas Corpus

A judge in a **municipal court of record** may issue a writ of habeas corpus in cases in which an offense charged is within the jurisdiction of the court. Government Code (G.C.) Sec 30.00006(e). If a defendant has been placed in jail for “failure to pay a fine and costs,” C.C.P. Art. 45.048 (a), requires that a defendant SHALL be discharged on habeas corpus by showing a defendant: 1) is **‘too poor to pay the fine and costs’**, OR 2) “has been in jail a sufficient length of time to satisfy the fine and costs at a rate of not less than \$50.00 for each period of time served.” C.C.P. Art. 45.048 (b) defines the period be not less than 8 hours or more than 24 hours to satisfy each \$50.00 of the fine and costs. The word “indigent’ is not used, but “too poor to pay the fine and costs” evokes images of indigency.

#### Appeal

1. Each defendant has a right to appeal from a judgment or conviction. G.C. 30.00014(a), C.C.P. Art. 44.02, 45.042. A claim of indigence may be made in a municipal court if a defendant appeals. An “eligible **indigent** defendant is entitled to have a trial court appoint an attorney” in appellate and post-conviction habeas corpus matters **‘if the court concludes that the interests of justice require representation.’** C.C.P. Art. 1.051 (d) (4). Indigent is defined in this article under subsection (b).

2. If a defendant appeals a case and “**is unable to pay for the appellate record**,” a defendant may “by motion and affidavit ask a trial court to have the appellate record furnished without charge.” Texas Rules Appellate Procedure 20.2. If after hearing the motion, a judge finds that a defendant **cannot pay or give security** for the appellate record, a judge must order a court reporter to transcribe the proceedings. The reporter must be paid from the county general funds in an amount set by the trial court. This article does not require indigency be proven. [This paper will not address this process].

In these circumstances in which a defendant requests counsel or asserts inability to pay for the record, a trial judge should consider the defendant’s claim. Once done a judge should document his or her decision in writing.

#### Local Government Code Defines “Indigent”

The Local Government Code (L.G.C.) lists fees that are assessed upon conviction in criminal cases. L.G.C. Sec. 133.002(2) defines indigent: “an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.” The Department of Health and Human Services (HHS) updates and publishes federal poverty guidelines in the Federal Register. The 2015 poverty guidelines, published January 22, 2015, are found at <http://aspe/hhs.gov/poverty>, and are included in the Appendix.

#### Transportation Code - Driver Responsibility Act defines “Indigent”

Transportation Code (T.C.) Sec. 708.158 (b) defines indigent. A person is considered “indigent” who provides proof that:

1. Most recent federal income tax return shows a person’s (or household) income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines,
2. Most recent wage statement shows a person’s (household) income does not exceed 125 percent of the applicable income level established by the federal poverty guidelines, or
3. Federal, state, or school district document indicates a person (or if a dependent, a taxpayer claiming the person as a dependent) receives assistance from:
  - a. Food stamp program or financial assistance program under Chapter 31, Texas Human Resources Code,
  - b. Federal special supplemental nutrition program for woman, infants, children (42 U.S.C. Section 1786)
  - c. Medical assistance program under Chapter 32, Texas Human Resources Code,
  - d. Child health plan program under Chapter 62, Texas Health & Safety Code, or
  - e. National free or reduced-price lunch program under 42 U.S.C. Sec. 1751

The statute uses the word “MAY” indicating the list is not exclusive or mandatory – suggesting a person may provide items other than those listed and that a judge may consider additional items.

Effective September 1, 2011, the Department of Public Safety (DPS) “shall waive all surcharges assessed under the Driver Responsibility Program for a person who is **indigent**.” T.C. Sec. 708.158 (b) requires that a person with a pending surcharge must provide information to the court in which a person

was convicted of the offense that is the basis for the surcharge. The statute does not state whether a judge makes a determination of indigency at sentencing or after a surcharge has been imposed.

If a person returns to the municipal court that convicted asking to be found indigent, the first person he or she will likely see is a court clerk. Only a judge can make this determination; the clerk should set the case when a judge can consider the request. A judge may establish a policy listing what items must be provided to allow a judge to make a determination. One who returns for a hearing should be aware that he or she has a burden to prove indigence to the judge.

After considering the documentation provided, a judge must determine if a person is indigent and sign a written order. An Order Waiving Surcharges for an Indigent Defendant is included in the Appendix. The statute does not state whether a judge, clerk, or defendant returns an order to the DPS. Only surcharges assessed after September 1, 2011, may be waived under this section. The most recent DPS information pamphlet on the Driver Safety Program is included in the Appendix.

#### Reports to the Office of Court Administration

Texas Government Code Sec. 71.035(b) and Texas Administrative Code, Sec. 171.1 and 171.2 require each municipal judge, clerk, or other court official to report information on criminal cases to the Texas Judicial Council no later than 20 days after the end of the month for which statistics are reported. The Official Municipal Court Monthly Report form is filed with the Office of Court Administration (OCA). The number of cases in which a person in custody requested counsel under C.C.P. Art. 15.17 from a judge, acting as a magistrate, is to be included on the Additional Activity Section, Line 1, Section A, B, and C.

The number of cases in which community service, or a tutoring program, was completed to discharge a fine and/or costs is to be included on the Additional Activity Section, Line 14. Subsections A and B require the number of cases in which community service partially or fully satisfied the fine or court costs. The number of cases in which a fine or costs were fully or partially waived for **indigency** (including waiver because a defendant was a child at the time of the offense) is reported on the Additional Activity Section, Line 16.

The number of cases and the amount of fines and costs waived for **indigency** (including waiver because a defendant was a child at the time of the offense) is to be included on lines 16 and 17. The Monthly Report does not distinguish whether or not a defendant whose fine and costs were waived was in custody. An OCA Additional Activity Section and the OCA Instructions for the Additional Court Activity are included in the Appendix.

#### Conducting a hearing to determine indigence

The statutes applicable to municipal courts refer to a finding, concluding, or “determining” indigency, although indigence is not always defined. Before a judge can make a determination, there must be a hearing with evidence presented to a judge.

The purpose of C.C.P. Art 45.001 is to establish procedures to process cases that come within the criminal jurisdiction of a municipal court. The chapter is intended and shall be construed: 1) “to provide a meaningful opportunity for a person appearing in a criminal proceeding before a judge to be heard,” and 3)

“to promote adherence to the rules with sufficient flexibility to serve the ends of justice.” Because there is no definition of indigence in the statutes for all situations, a judge who must conduct an indigency hearing can be guided by these objectives.

A judge may establish a policy that defines indigency using L.G.C. Sec. 133.002(2) or T.C. Sec. 708.158 (b). A judge may adopt a policy that defines indigency using the Federal Poverty Guidelines or the Indigent Defense Plan for the county in which the court is located. An Indigent Defense Plan contains “indigence determination standards” that define indigency and factors used to determine it. Indigent Defense Plans are at <http://tidc.tamu.edu/public.net/Reports/IDPlanNarrative.aspx>, the Texas Indigent Defense Commission website. A judge’s policy may define indigency using Webster’s Dictionary: “impoverished” or “a level of poverty in which real hardship and deprivation are suffered and comforts of life are wholly lacking.” A policy will enable a clerk to inform persons of documents to bring and provide every person a chance to be heard with sufficient flexibility to serve the ends of justice.

The 2013 TMCEC Bench Book, Chapter 8-3, Indigence, lists the procedure a judge can follow. It also lists several factors the judge can consider:

a. Defendant’s Amount of income

b. Defendant’s Source of income

Wages, investment, checking and savings, child support, social security, disability, welfare income, assets or non-exempt property to sell, loans and ability to borrow money, if defendant posted cash or surety bail, recent or long-term job loss

c. Defendant’s Expenses

Number and age of dependents, rent or mortgage payment, debts & obligations (car note, credit card), personal expense, illness or incapacity of defendant, spouse, or dependent child

d. Other evidence

Ability to work, spouse financial condition

Defendant long- term physical illness or disability (or spouse or dependent child)

Defendant past or present mental disability (or spouse or dependent child)

Defendant recently incarcerated (or spouse)

Factors that should not be considered are:

a. Financial resources of defendant’s parents or other relatives,

b. Exempt property of defendant including homestead and vehicle, and

c. Attitude of a defendant

If a defendant was unable to pay the full fine and costs at the time of plea and sentencing, a sworn Application for Time Payment, Extension, or Community Service may be in the court file. A judge may reconsider this Application, the amount paid, and frequency of payments made. A judge may have

previously required Community Service that reflects a judge's finding at the time community service was ordered. If not done, a judge may require a defendant to complete an Application for Time Payment, Extension, or Community Service. This Application may be sworn before a clerk.

A defendant who appears for a hearing should be sworn with testimony taken and documents received by a judge. After considering the evidence, a judge must make the best judicial decision in the interest of justice and with due process. A written order should be signed that documents whether or not a defendant is indigent.

If a judge finds a defendant indigent in a pending case, the fine and costs are waived. Once a judge documents a court's case file, the file should be given to a clerk to close the case(s) as fine and costs waived due to indigency. The number of case(s) and the amount of fine and costs waived are reported to the OCA. If a judge does not find a defendant indigent in a pending case, an order should be signed allowing the fine or costs to be discharged with an alternative means of a payment plan, community service or tutoring (if a child).

C.C.P. Art 45.201 requires that "all prosecutions in a municipal court shall be conducted by the city attorney of the municipality (or deputy city attorney)." The statute is silent as to the need for a prosecutor to be present at an indigency hearing.

Each judge and clerk who hears the words "I can't pay," must be mindful that due process requires a judge to consider if a defendant is indigent or if there is an alternative method to discharge a fine and costs. Every judge and clerk who sees a person returning to court with a surcharge due to DPS who claims indigency must remember that due process requires a judge to consider whether a defendant is now indigent.

Every person should leave a municipal court feeling that their documents were considered and they have been given a meaningful opportunity to be heard. Whether or not a judge determines indigence, an order should be signed documenting that a judge has considered a defendant's assertion, the evidence presented, and made a determination.

CAUSE NUMBER(S): \_\_\_\_\_

STATE OF TEXAS

VS.

IN THE MUNICIPAL COURT

CITY OF \_\_\_\_\_

\_\_\_\_\_ COUNTY, TEXAS

INITIAL ALL THAT APPLY.

\_\_\_ The Court has advised me that I am responsible for satisfying the judgment and sentence:

in the amount of \$\_\_\_\_\_ in Cause Number \_\_\_\_\_;

in the amount of \$\_\_\_\_\_ in Cause Number \_\_\_\_\_;

in the amount of \$\_\_\_\_\_ in Cause Number \_\_\_\_\_; and

in the amount of \$\_\_\_\_\_ in Cause Number \_\_\_\_\_.

\_\_\_ I assert that I am unable to pay the fine and costs immediately and that the following information is documentation that I have insufficient resources or income to pay today.

\_\_\_ I request that the Court extend the payment to a later date.

\_\_\_ I request that the Court grant a time payment plan.

\_\_\_ I request that I be able to discharge the fine and costs by performing community service, because I have no resources to pay and I am unable to pay the fine and costs.

\_\_\_ I have been determined to be indigent by the federal government and I am receiving or I am eligible to receive assistance under a federal program. Name of program: \_\_\_\_\_.

APPLICATION FOR TIME PAYMENT, EXTENSION, OR COMMUNITY SERVICE

Name: \_\_\_\_\_ Telephone Number: \_\_\_\_\_

Address: \_\_\_\_\_

Employer: \_\_\_\_\_ Job Title: \_\_\_\_\_

Employer's Address: \_\_\_\_\_

Salary: \$\_\_\_\_\_ per \_\_\_\_\_ Employer's Telephone Number: \_\_\_\_\_

Marital Status (Check One): Married  Single  Divorced  Widowed

Spouse's Name: \_\_\_\_\_ Spouse's Salary: \$\_\_\_\_\_ per \_\_\_\_\_

Spouse's Employer: \_\_\_\_\_ Spouse's Job Title: \_\_\_\_\_

List the source and amount of any other income you receive: \$ \_\_\_\_\_

List all your dependents, their ages, and their relationship to you: \_\_\_\_\_

Your residence is (Check One): Rented  Owned  Rent-Free

LIST ALL BANK ACCOUNTS IN YOUR NAME OR FROM WHICH YOU MAY WITHDRAW FUNDS:

Name of Institution	Address of Institution	Type of Account	Account Balance
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

**ESTIMATE YOUR AVERAGE CURRENT MONTHLY EXPENSES FOR YOU AND YOUR FAMILY:**

- a. Home mortgage payment, rent, or lot rental for trailer: \$ \_\_\_\_\_
- b. Routine home maintenance: \$ \_\_\_\_\_
- c. Utilities (electricity, water, gas, telephone): \$ \_\_\_\_\_
- d. Food and sundries: \$ \_\_\_\_\_
- e. Clothing: \$ \_\_\_\_\_
- f. Laundry and cleaning: \$ \_\_\_\_\_
- g. Newspapers, periodicals, & books, including school books: \$ \_\_\_\_\_
- h. Medical, dental, and drug expenses: \$ \_\_\_\_\_
- i. Insurance (auto, life, medical, homeowners/renters): \$ \_\_\_\_\_
- j. Transportation, including auto payments: \$ \_\_\_\_\_
- k. Taxes not deducted from wages or included in mortgage: \$ \_\_\_\_\_
- l. Alimony or support payments: \$ \_\_\_\_\_
- m. Religious/charitable contributions: \$ \_\_\_\_\_
- n. Other expenses (use reverse side if necessary): \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_
- \_\_\_\_\_ \$ \_\_\_\_\_

**LIST ALL REAL ESTATE OWNED BY YOU OR YOUR SPOUSE:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**LIST & GIVE THE VALUE FOR ALL PERSONAL PROPERTY OWNED BY YOU OR YOUR SPOUSE:**

- a. Deposits in financial institutions and cash on hand: \$ \_\_\_\_\_
- b. Household goods and supplies (use reverse side if necessary):
 

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
- c. Household furniture and furnishings (use reverse side if necessary):
 

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
- d. Jewelry (use reverse side if necessary):
 

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____



**APPLICATION FOR TIME PAYMENT, EXTENSION, OR COMMUNITY SERVICE (Page 3 of 4)**

e. Sports equipment and musical instruments (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

f. Television, home theater, media, and stereo equipment (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

g. Household appliances (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

h. Automobiles, trucks, trailers, boats, and accessories (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

i. Machinery and tools, lawn and garden equipment (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

j. Office equipment, supplies, furniture, and inventory (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

k. Farming equipment, supplies, livestock, and other animals (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

l. Any other property not listed above (use reverse side if necessary):

_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____	_____	\$ _____

**LIST ALL OF YOUR CREDITORS (including credit cards) AND THE AMOUNT YOU OWE EACH (Use reverse side if necessary):**

_____ \$ _____	_____ \$ _____
_____ \$ _____	_____ \$ _____
_____ \$ _____	_____ \$ _____
_____ \$ _____	_____ \$ _____
_____ \$ _____	_____ \$ _____
_____ \$ _____	_____ \$ _____

YOUR INITIAL BY EACH OF THE FOLLOWING STATEMENTS INDICATES THAT YOU HAVE READ THE STATEMENT, UNDERSTAND IT, AND AGREE TO IT.

\_\_\_ I **promise** that until my fines have been paid in full, I will notify this Court in person or by first-class mail of any changes of my address or telephone number at the following address (*court address*) \_\_\_\_\_ within five (5) days of the change.

\_\_\_ I **understand that until my fines and court costs are paid in full I have a continuing obligation to notify the Court of any changes in my financial status that may hinder my ability to satisfy the judgment or help me satisfy the judgment.**

\_\_\_ I **understand** that if I pay any part of the fine, costs, or restitution (if applicable) on or after the 31<sup>st</sup> day after judgment was entered that I am responsible for paying a \$25 time payment fee (Section 133.103, Local Government Code).

\_\_\_ I **understand that submitting false financial information to the Court constitutes the crime of tampering with a governmental record, punishable by incarceration and/or the imposition of a fine (Section 37.10, Penal Code). I swear that all the information in this application is true, correct, and complete to the best of my knowledge and belief.**

Date: \_\_\_\_\_ Defendant's Signature: \_\_\_\_\_

**Sworn and subscribed** before me this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Judge) (Clerk) (Deputy Clerk)

COMMUNITY SERVICE ORDER (Art. 45.049, C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF \_\_\_\_\_

§

\_\_\_\_\_ COUNTY, TEXAS

ORDER

ON THIS DATE appeared \_\_\_\_\_, Defendant in the above styled and numbered cause, who, having been found guilty by the Court and assessed a fine and costs totaling \$\_\_\_\_\_ in this cause on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, (and the Court having determined that the Defendant has failed to pay such fine and costs) (and the Court having determined that the Defendant has insufficient resources or income to pay such fine and costs), it is hereby

ORDERED, ADJUDGED, AND DECREED that the Defendant discharge (all of the fine and costs owed) (the remaining fine and costs owed) by performing community service as follows:

1. The Defendant shall work a total of \_\_\_\_\_ hours;
2. The Defendant's work shall be completed no later than \_\_\_\_\_, 20\_\_\_\_;
3. The Defendant shall perform the community service for a (government agency) (non-profit organization) that provides services to the general public that enhances the social welfare and general well-being of the community;

and the Court having further found that the working of more than 16 hours of community service per week (will)(will not) work a hardship on the Defendant, it is further

ORDERED, ADJUDGED, AND DECREED that the Defendant shall work no more than \_\_\_\_\_ hours per week in performing the above-ordered community service. A defendant is considered to have discharged \$\_\_\_\_\_ of fines or costs for each eight hours of community service. A defendant may discharge this obligation to perform community service by paying at any time the fine and costs assessed.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Judge, Municipal Court

City of \_\_\_\_\_

\_\_\_\_\_ County, Texas

(municipal court seal)

**Editor's Note:** The Court may require the Defendant to discharge a fine and costs at not less than a minimum of \$50 for every eight hours of community service performed. Art. 45.049(e), C.C.P.

For community service orders on children under Article 45.0492, C.C.P., see the Judgments & Orders chapter.

WAIVER OF PAYMENT OF FINE AND COSTS FOR INDIGENT DEFENDANTS AND CHILDREN (Art. 45.0491, C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF \_\_\_\_\_

\_\_\_\_\_

§

\_\_\_\_\_ COUNTY, TEXAS

**ORDER**

On the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, came to be heard Cause Number \_\_\_\_\_ wherein \_\_\_\_\_, hereinafter called Defendant, was convicted of a misdemeanor offense to wit: \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and ordered to pay fine and costs in the amount of \$\_\_\_\_\_.

The Defendant has defaulted on payment of the fine and costs. After due consideration of the facts and circumstances regarding the Defendant's default in the aforementioned judgment in which the Defendant was ordered to pay a fine and costs of \$\_\_\_\_\_, the Court determines as follows:

1. The Defendant is indigent or was, at the time of the offense committed, a child as defined by Article 45.058, Code of Criminal Procedure; and
2. Each alternative method of discharging the fine or costs under Article 45.049, Code of Criminal Procedure or otherwise authorized by Chapter 45, would impose an undue hardship on the Defendant.

Accordingly, pursuant to Article 45.0491, Code of Criminal Procedure, the Court waives the stated fine and costs for Defendant.

**ORDERED, ADJUDGED, AND DECREED.**

Entered this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*(municipal court seal)*

\_\_\_\_\_  
 Judge, Municipal Court  
 City of \_\_\_\_\_  
 \_\_\_\_\_ County, Texas

**Editor's Note:** The 83rd Legislature amended Art. 45.0491, C.C.P., providing more leeway to criminal judges in dealing with fines imposed on children. If the facts and circumstances warrant it, judges now have the discretion to waive fines and court costs accrued by defendants during childhood if the performance of community service under Article 45.049 or Article 45.0492 or the discharge of fine and costs through tutoring permitted under Article 45.0492 would be an undue hardship.

**Order Waiving Surcharges for Indigent Defendant (Sec. 708.158, T.C.)**

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS

§

IN THE MUNICIPAL COURT

VS.

§

CITY OF \_\_\_\_\_

§

\_\_\_\_\_ COUNTY, TEXAS

(Texas Driver's License # \_\_\_\_\_)

(DOB: \_\_\_\_\_)

**ORDER WAIVING SURCHARGES FOR INDIGENT DEFENDANT**

On the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, Defendant was convicted by this Court of an offense for which surcharges are assessed under Texas Transportation Code, Chapter 708, to wit: \_\_\_\_\_, which offense occurred on \_\_\_\_\_.

The Court, having heard the evidence presented by the Defendant, and having reviewed all documentation provided, makes the following findings:

- The Defendant's income or the Defendant's household income does not exceed 125% of the applicable income level established by the federal poverty guidelines; or
- The Defendant, or the taxpayer claiming the Defendant as a dependent, receives assistance from one of programs outlined in Section 708.158(b)(3) of the Transportation Code.

The Court finds the Defendant is indigent.

This is the Court in which the Defendant was convicted of the offense that is the basis for the surcharge.

**It is therefore ORDERED** that the Texas Department of Public Safety shall WAIVE all surcharges assessed under Texas Transportation Code, Chapter 708, for the Defendant as a result of the conviction in the above entitled and numbered cause.

*(municipal court seal)*

\_\_\_\_\_  
Judge, Municipal Court

\_\_\_\_\_  
Date

City of \_\_\_\_\_

\_\_\_\_\_  
County, Texas

City of \_\_\_\_\_

ORDER OF COMMITMENT (CAPIAS PRO FINE) (Art. 45.046, C.C.P.)

CAUSE NUMBER: \_\_\_\_\_

STATE OF TEXAS	§	IN THE MUNICIPAL COURT
VS.	§	CITY OF _____
_____	§	_____ COUNTY, TEXAS

TO ANY PEACE OFFICER OF THE STATE OF TEXAS – GREETINGS:

You are commanded to take into custody and commit to the jail of your County the above-named Defendant, who was, on the \_\_\_\_\_, day of \_\_\_\_\_, 20\_\_\_\_, convicted before the Municipal Court in the City of \_\_\_\_\_, \_\_\_\_\_ County, Texas of the offense of \_\_\_\_\_ and was assessed a fine and court costs totaling \$ \_\_\_\_\_, of which \$ \_\_\_\_\_ is unpaid.

The undersigned finds that EITHER:

- (1) the arrestee is the same person as the Defendant in the cause described above;
- (2) the Defendant has intentionally failed to make a good faith effort to pay said fine and costs; and
- (3) the Defendant is not indigent and has failed to make a good faith effort to discharge said fine and costs;

OR

- (1) the arrestee is the same person as the Defendant in the cause described above;
- (2) the Defendant has intentionally failed to make a good faith effort to pay said fine and costs; and
- (3) the Defendant is indigent and:
  - (a) has failed to make a good faith effort to discharge the fine and costs under Article 45.049, Code of Criminal Procedure, (community service);
  - (b) could have discharged the fine under Article 45.049, Code of Criminal Procedure, (community service) without experiencing any undue hardship.

Therefore, you are commanded to keep the Defendant in custody until the sum of \$ \_\_\_\_\_ is fully paid or Defendant is otherwise discharged by law. Unless otherwise specified in the judgment or sentence in said cause, pursuant to Article 45.048(b), Code of Criminal Procedure, the Court specifies that the Defendant remain in jail a sufficient length of time to satisfy the remaining fine and costs at the following rate:

\_\_\_\_\_ hours (not less than 8 or more than 24) to earn  
\_\_\_\_\_ (minimum dollar amount \$50) to satisfy the fine and costs.

In the event Defendant is committed for defaulting in more than one judgment, jail credit is to be assessed:

- Concurrently (at the same time, per judgment until jail credit exceeds or equals the sum total of fine and costs); or
- Consecutively (“stacked,” one sentence of confinement is to follow another until jail credit exceeds or equals the sum total of fine and costs) with following cause(s): *List cause number(s), Court(s), date of judgment(s), offense(s), and fine and costs total(s)*

Ordered on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(municipal court seal)

\_\_\_\_\_  
 Judge, Municipal Court  
 City of \_\_\_\_\_  
 \_\_\_\_\_ County, Texas