



ENFORCEMENT

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CHRONOLOGICALLY DISTINGUISHING THE WARRANT, CAPIAS, AND CAPIAS PRO FINE IN THE TEXAS CODE OF CRIMINAL PROCEDURE

Purpose	Prior to Formal Charging	After Formal Charging but Prior to Judgment	After Judgment and Sentence
Bond Forfeiture or Surrender of Principal	“Arrest Warrant” by <i>Magistrate</i> – Article 17.19	“Chapter 23 Capias” by <i>Trial Court</i>	
To Procure Custody	“Arrest Warrant” upon oath of affirmation & determination of probable cause by <i>Magistrate</i> – Exception: Article 45.014 “Arrest Warrant” by <i>Municipal Court or Justice Court</i>	“Chapter 23 Capias” by <i>Trial Court</i> – Exception: Article 45.014 “Arrest Warrant” by <i>Municipal Court or Justice Court</i>	“Chapter 43 Capias” by <i>Trial Court</i> – Article 43.015(1) – Article 43.04
To Enforce Judgment for Unpaid Fines and/or Costs			“Capias Pro Fine” by <i>Trial Court</i> ❖ General Provisions – Article 43.015(2) – Article 43.021 – Article 43.05 – Article 43.06 – Article 43.07 ❖ Specific Procedures in Chapter 45 Courts – Article 45.045 – Article 45.046 ❖ Specific Procedures in Other Trial Courts – Article 43.03

CLERKS AFFIDAVIT FOR CAPIAS PRO FINE

CAUSE NUMBER: _____

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

I, _____, being duly sworn, upon oath, state that I have good reason to believe and do believe that on or about the _____ day of _____, 20____, _____, Defendant, defaulted in payment of a fine and court costs. My belief is based upon the following:

I am the Municipal Court Clerk and custodian of records for the _____ Municipal Court, City of _____, _____, County, Texas. On _____, 20____, I personally examined the official records of this Municipal Court. The records indicate that the Defendant in the above styled and numbered cause was charged with the offense of: _____ and was found guilty of the offense on the _____ day of _____, 20____. The records indicate that the Defendant was ordered to make (a payment)(certain prescribed payments) on the fine and costs imposed in the above mentioned case on the following date(s): _____.

The official Court record indicates that the Defendant did not appear on the _____ day of _____, 20__ to make a payment or to request an extension as ordered by the Court. The official Court record shows that said Defendant owes _____ dollars (\$_____) in fine and court costs to satisfy the judgment.

Affiant

Sworn to and subscribed before me on _____ day of _____, 20__.

(Judge) (Clerk) (Deputy Clerk)

City of _____

_____ County, Texas

CAUSE NUMBER: _____

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

To the Chief of Police of the City of _____ or any peace officer of the State of Texas – GREETINGS

Whereas on the ____ day of _____, 20__, before Judge _____ of the Municipal Court of the City of _____, Texas, _____, the Defendant, date of birth _____, was convicted of the offense of: _____ and a judgment was rendered by said Court in favor of the State, against said Defendant for the sum of \$_____ and all costs of court; and there is due and unpaid the amount of \$_____.

The Court hereby finds that said Defendant has defaulted and failed to wholly satisfy the judgment in the above styled case.

You are therefore commanded to bring said Defendant before the Municipal Court of the City of _____, Texas immediately or place him or her in jail until (he)(she) can be brought before the Court without delay until the next business day following the date of the Defendant’s arrest if the Defendant cannot be brought before the Court immediately. **You are commanded** to notify the Court immediately upon arrest of the Defendant.

In witness whereof, I have hereunto set my hand at my office in the Municipal Court of the City of _____, Texas this ____ day of _____, 20__.

Judge, Municipal Court

(municipal court seal)

OFFICER'S RETURN

Came to hand the ____ day of _____, 20__, at _____ o'clock __.m. and executed on the ____ day of _____, 20__, at _____ o'clock __.m. the same by arresting _____, the named Defendant.

Arresting Officer

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

JUVENILE CONTEMPT WARNING (Art. 45.050(c), C.C.P.)

CAUSE NUMBER: _____

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

On this ___ day of _____ 20___, the Defendant in the above numbered and entitled cause is warned by the Court that failure or refusal to comply with the Court’s order may result in the Defendant being held in contempt of court.

Violation of this Court’s order shall result in the Defendant being taken into custody by a peace officer and either:

1. **REFERRAL** to Juvenile Court for delinquent conduct for contempt of a municipal court order;

OR

2. **RETENTION** of jurisdiction by this Court and:
 - A. the imposition of a fine not to exceed \$500; and/or
 - B. the suspension or denial of a driver’s license or permit until the Defendant has **fully complied** with the orders of this Court.

Acknowledged by Defendant,

Defendant’s Signature

Admonished by,

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

SHOW CAUSE NOTICE: ADULT OR JUVENILE (Sec. 21.002(c), G.C., and Art. 45.050(c), C.C.P.)

CAUSE NUMBER: _____

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

Name: _____ Offense: _____

Address: _____

You are hereby ordered to appear before the _____ Municipal Court at _____ o'clock __.m., on the ____ day of _____, 20__, to show cause why you failed to abide by the terms of the judgment rendered against you on the _____, 20__. Specifically, you are accused of failing to:

ADULT DEFENDANT: Failure to appear on this date and time will result in a finding of contempt being made against you, the Court imposing a fine of up to \$100 and/or a sentence of up to three (3) days in jail, and the issuance of a warrant to enforce the judgment of contempt.

JUVENILE DEFENDANT WARNING:

If you fail to appear pursuant to this order and your contemptuous conduct occurs **on or after your 17th birthday**, the Court may impose a fine of up to \$100 and/or sentence you to up to three (3) days in jail. To avoid such consequences, you must fully comply with all of the Court's orders.

If you fail to appear pursuant to this order and your contemptuous conduct occurs **prior to your 17th birthday**, the Court may have you taken into custody and refer you to Juvenile Court for delinquent conduct. Alternatively, the Court may impose a fine of up to \$500 and/or deny you the ability to possess a Texas driver's license until you fully comply with the Court's orders. If an allegation of contempt stems from an offense occurring on or after September 1, 2003, and if you have already been found guilty, you may be committed to jail upon turning age 17. To avoid such consequences you must fully comply with all of the Court's orders.

(Judge)(Clerk), Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

CONTEMPT: ADULT DEFENDANT PLEA

CAUSE NUMBER: _____

STATE OF TEXAS
VS.

§
§
§

IN THE MUNICIPAL COURT
CITY OF _____
_____ **COUNTY, TEXAS**

CONTEMPT OF COURT—DEFENDANT’S PLEA FORM

I was informed of the accusation against me and my rights, including my right to have a hearing and the right to hire an attorney to represent me in this matter or to request an attorney represent me if I cannot afford one. I understand that a plea of true will result in me being found in contempt and the possibility of being sentenced up to three days in the county jail and/or fined up to one hundred dollars (\$100).

I fully understand the proceedings against me and my rights outlined above and voluntarily enter a plea of (true)(not true) to the accusation of contempt of Court.

- I waive the right to a hearing before the Court.
- I waive my right to have an attorney represent me in a hearing before the Court.

Date

Defendant’s Signature

CAUSE NUMBER: _____

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

JUDGEMENT OF CONTEMPT

On this the ____ day of _____, 20__, the Court has exercised its inherent authority and the authority granted by Section 21.002, Government Code, (to require the proceedings be conducted with dignity and in an orderly and expeditious manner)(to compel obedience of Court orders)(to so control the proceedings that justice is done).

The Court finds _____ in direct contempt of Court for (*describe conduct*):

which occurred before this Court. The Court further finds that the above described actions were in contempt of court and that the conduct presented sufficient exigent circumstances as to merit a summary finding of contempt in that the actions of the contemnor disrupted proceedings before the court so that they could not be conducted with dignity and in an orderly and expeditious manner. The Court further finds that imposition of contempt is necessary to control the proceedings so that justice may be done. The Court further finds that the contemnor is not an officer of the Court.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that _____ is in direct contempt of court and shall be:

- Confined in _____ County Jail for a period of _____ (not to exceed three days).
- Fined the sum of \$ _____ (not to exceed \$100).

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

JUDGMENT OF CONTEMPT FOR DISOBEYING A COURT ORDER: ADULT (Secs. 21.001 and 21.002(c), G.C.)

CAUSE NUMBER: _____

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

On this the _____ day of _____, 20____, the Court has exercised its inherent authority and the authority granted by Government Code, Section 21.001, to require the proceedings be conducted with dignity and in an orderly and expeditious manner and to compel obedience of court orders and to so control the proceedings that justice is done.

The Court finds that a notice of contempt was made to _____ on the ____ day of _____, 20__, and that _____ (did)(did not) attend a show cause hearing on the ____ day of _____, 20__, as set forth in the notice. The Court finds that Contemnor did not show good cause why he/she should not be held in contempt.

The Court finds that Contemnor violated an order of the Court to wit: _____.

The Court finds that a finding of contempt is necessary to compel obedience of Court orders.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that _____ is in contempt of court and shall be:

- Confined in _____ County Jail for a period of _____ (not to exceed three days).
- Fined the sum of \$ _____ (not to exceed \$100).

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

JUDGMENT OF CONTEMPT: JUVENILE (Art. 45.050, C.C.P.)

CAUSE NUMBER: _____

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

On the ___ day of _____, 20__, this Court was in session and entered a judgment of guilty against _____ (name) who was ordered by the Court to: _____

After personally receiving in writing the above lawful order from the Court, _____ did then and there fail to comply with the order, to wit: _____

_____ , which amounted to a willful and contemptuous refusal to obey the above lawful order. _____ was warned by the Court that such failure or refusal was unlawful contempt of court.

After receiving a written warning, _____ did then and there willfully and contemptuously refuse to obey the lawful order by _____ (municipal judge).

The Court finds that a notice of contempt was made to _____ on the ___ day of _____, 20__. That _____ (did)(did not) attend the show cause hearing on the ___ day of _____, 20__, as set forth in the notice. The Court finds contemnor did not show good cause he he/she should not be held in contempt.

The Court finds that a finding of contempt is necessary to compel obedience of court orders.

The Court hereby refers the child to the appropriate Juvenile Court for delinquent conduct for violating a lawful order of the _____ Municipal Court under circumstances that would constitute contempt of Court.

The Court hereby retains jurisdiction of the case and finds that this refusal constitutes contempt of court and that _____ is guilty of contempt.

It is hereby **ordered** that _____ pay a fine in the amount of \$ _____ (an amount not to exceed \$500).

It is hereby **ordered** that the Texas Department of Public Safety suspend the child's driver's license or deny the issuance of a license or permit until receiving notice from this Court that the child has fully complied with the orders of this Court.

Rendered and entered this ___ day of _____, 20__.

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

ORDER REFERRING CHILD TO JUVENILE COURT FOR DELINQUENT CONDUCT (Art. 45.050(c)(1), C.C.P.)

CAUSE NUMBER: _____

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

The Judge of the Municipal Court of the City of _____, having examined the records in the matter of the above named Defendant, makes the following findings:

1. The Defendant's date of birth is _____.
2. The Defendant was previously convicted in this Court for the offense of _____, docket number _____ of the City of _____ Municipal Court on the _____ day of _____, 20____.
3. Upon conviction, this Court on the _____ day of _____, 20____ ordered Defendant to _____ no later than _____, 20____.
4. Defendant has disobeyed the above order by: _____

 _____.

Pursuant to Art. 45.050(c)(1), Code of Criminal Procedure, it is **ORDERED** that the Defendant is referred to _____ (enter title of appropriate juvenile court official. See Section 51.02(12), Family Code), for delinquent conduct as defined in Section 51.03(a)(2), Family Code. **IT IS FURTHER ORDERED** that the Clerk of this Court shall forward a certified copy of all papers and records of this case, including this Order, to the above named official.

Signed and entered this _____ day of _____, 20____.

 Judge, Municipal Court
 City of _____
 _____ County, Texas

(municipal court seal)

CONTEMPT: FAILURE TO APPEAR FOR JURY SERVICE (Complaint & Judgment) (Art. 45.027(c), CCP)

NUMBER: _____

IN THE MATTER OF

§

IN THE MUNICIPAL COURT

§

CITY OF _____

(Contemnor)

§

_____ COUNTY, TEXAS

I, _____, do solemnly swear that I have good reason to believe and do believe that _____, on or about the _____ day of _____, 20__, and before the making of this complaint did then and there intentionally and knowingly fail to appear for jury service in Cause No. _____ when summoned by the Municipal Court of the City of _____, Texas, which said conduct did then and there constitute a civil contempt of said Court.

Affiant

Subscribed and sworn to before me by _____ on this the _____, day of _____, 200__.

(Judge) (Clerk)(Deputy Clerk)

(municipal court seal)

JUDGMENT OF CONTEMPT FOR FAILURE TO APPEAR FOR JURY SERVICE

On this the _____ day of _____ 20__, the Contemnor named in the contempt complaint reference number _____, after due notice:

- appeared for the show cause hearing.
- failed to appear for the show cause hearing.

The Court exercised its inherent authority and the authority granted by Article 45.027, Code of Criminal Procedure, and ordered a venire be summoned for jury service, and required the appearance of the said Contemnor to appear as a venire person so that a jury trial could be conducted.

The Court finds that:

- Contemnor failed to appear for jury service, and Contemnor failed to appear after due notice for a show cause hearing on civil contempt and failed to present sufficient cause for failing to appear for jury service.
- Contemnor failed to appear for jury service, and Contemnor appeared for a show cause hearing and failed to present sufficient cause for failing to appear for jury service.
- The Court finds _____ in contempt of court for failing to appear for jury service.
- It is therefore ordered, adjudged, and decreed that _____ is in contempt of court for failure to appear for jury service and is fined the sum of _____ (maximum \$100) for contempt.

Judge, Municipal Court
City of _____
_____ County, Texas

(municipal court seal)

ABSTRACT OF JUDGMENT

CAUSE NUMBER: _____

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

I, _____, Municipal Court Clerk for the City of _____, do hereby verify that on the ____ day of _____, 20__, in the _____ Municipal Court, _____ County, Texas, in a cause entitled State of Texas vs. _____, Cause Number _____ on the docket of the Court, judgment was rendered in favor of the State of Texas, for the use and benefit of the City of _____, against _____, the Defendant, who resides at _____ (*Defendant's address*), whose birth date is _____, whose Social Security Number is _____, and whose driver's license number is _____, in the amount of _____ dollars (\$_____), which includes court costs. The balance due on said judgment is \$_____.

Signed this ____ day of _____, 20__.

(municipal court seal)

Municipal Court Clerk
City of _____
_____ County, Texas

Subscribed, sworn to, and acknowledged before me, the undersigned authority, by _____, Court Clerk for the City of _____ on this ____ day of _____, 20__.

Notary Public in and for the State of Texas

After recording, return to:

WRIT OF EXECUTION

CAUSE NUMBER: _____

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

To Any Sheriff or Any Constable within the State of Texas:

On the ____ day of _____, 20__, _____ Municipal Court recovered a judgment in the Municipal Court of the City of _____, _____ County, Texas against _____, which judgment is recorded in the minutes of said Court. Said judgment is for the sum of \$_____, of which \$_____ is actually due.

Therefore, you are commanded that out of the property of _____, Defendant in execution, subject to execution by law, you cause to be made the sum of \$_____, together with the costs of executing this writ.

You shall execute this writ according to its terms, and according to law, and have the said sums of money, together with this writ, showing how you have executed the same, before said Court, at _____ in the City of _____, _____ County, Texas, within 90 days from the date of this writ.

Witness, _____, Municipal Court Clerk for the City of _____, Texas this ____ day of _____, 20__.

(municipal court seal)

Attest:

Municipal Court Clerk