

The information contained in this packet is not offered as legal advice. You should seek professional, licensed, legal counsel for advice. The following information is not exhaustive. There may be other remedies and procedures not contained in this information.

THE COURT AND ITS STAFF CANNOT TELL YOU WHAT YOU SHOULD DO.

The *Code of Judicial Conduct* prohibits a Judge or court employee from “practicing law” (giving legal advice). The *Code* further prohibits the Justice of the Peace from engaging in communications concerning the merits of a pending judicial proceeding, or the merits of an impending claim or dispute. The Court can speak with you concerning *UNCONTESTED* administrative and procedural matters.

FREQUENTLY ASKED QUESTIONS:

1. WHERE CAN I LOOK UP THE LAWS OF TEXAS?

The Texas Statutes are on-line at <http://www.capitol.state.tx.us/statutes/statutes.html>.

2. DO I HAVE TO COME TO COURT?

YOUR TICKET INCLUDES YOUR APPEARANCE DATE! IF YOU (OR *YOUR LAWYER*) DO NOT APPEAR IN WRITING OR IN PERSON, ON OR BEFORE YOUR APPEARANCE DATE, AN ADDITIONAL VIOLATION OF “*VIOLATE PROMISE TO APPEAR*” MAY BE ISSUED. *MINORS (UNDER AGE 17) MUST APPEAR WITH A PARENT OR LEGAL GUARDIAN, AND PLEA IN OPEN COURT BEFORE THE JUDGE.*

3. HOW LONG DO I HAVE TO APPEAR?

LOOK ON YOUR TICKET FOR YOUR *ON OR BEFORE* APPEARANCE DATE.

PLEASE NOTE: A TELEPHONE CALL IS NOT AN APPEARANCE!

You can mail in your Plea Document (green form) on or before the court date. Contact our office for fine amounts and court costs.

CERTAIN VIOLATIONS HAVE CONDITIONS WHICH ARE AFFECTED BY YOUR APPEARANCE DATE:

Expired Driver’s License: License must be renewed within 20 days of receipt of the citation or Appearance Date, whichever comes later.

Expired Registration: Registration must be renewed not later than 20 days after the date of the offense, and the Tax Assessor’s receipt must show the payment of the late fee.

Inspection Certificate: Inspection must be less than 60 days out of date, and new inspection must be made within 20 days from the date of the offense.

Failure to Maintain Financial Responsibility Proof of valid insurance (verified by the court)

covering the defendant and vehicle driven *at the time of the offense* may be produced at any time prior to final disposition.

4. WHAT IF THE COURT IS CLOSED ON MY APPEARANCE DAY?

Occasionally, the appearance day on the face of the ticket will be a weekend or holiday, or the court is closed. The best course is to take care of your business on a day the court is open before the appearance date. If you have waited, however, and this is your last day to appear, be certain to contact the court clerk early on the next business day the court is open. Point out that you attempted to appear on the designated day, but the court was closed. Not all courts follow the same policy, but it is reasonable to request that you be permitted to take care of your ticket as though you had appeared on time.

5. WHAT HAPPENS IF I DON'T GET TO COURT BY MY APPEARANCE DAY?

A SHOW CAUSE HEARING will be set for you. Failing to appear for this hearing can result in an additional offense will be issued against you and a warrant being issued for your arrest.

6. WILL I GET ARRESTED?

If you have (1) failed to appear by your appearance date and fail to appear for your Show Cause hearing; or at your scheduled trial; or (2) if you have been previously found guilty, assessed a penalty, and then have not paid your fine or appealed your conviction, a warrant can be issued for your arrest.

7. CAN I GET AN EXTENSION ON MY TIME TO APPEAR?

Justice of the Peace, Pct 1 policy is that if you enter a written plea of Guilty or No Contest by your appearance date, you may also include a request for an extension to pay your fine and court cost money.

8. DO I NEED A LAWYER?

It is not required that a defendant be represented by legal counsel, although a licensed attorney can give advice about options and procedures of which you may not be aware. If a defendant pleads “not guilty” and goes to trial, however, the State of Texas will be represented by the County Attorney employed by Montague County. Defendants can hire lawyers to represent them in court, but no lawyer will be appointed at the State’s expense. This is because offenses within the Justice Court’s jurisdiction are punishable by fine only, and not by imprisonment.

9. WHAT DOES A “PLEA” MEAN?

The Constitution requires that the accused be give notice of the charges filed, and given an opportunity to appear and be tried. This is known as “due process”. Once the defendant is notified of the charges filed, the defendant enters a plea of “guilty” (admitting to the offense), “no contest” (not admitting guilt, but not contesting the charges filed), or “not guilty” (requiring a trial by judge or jury). A plea of “guilty” or “no contest” will result in a finding of guilt by the court, along with a penalty. A plea of “not guilty” will result in pretrial hearing and then a trial by judge or jury may be scheduled.

NOTE: A plea of “guilty” may be used against a defendant for other purposes, such as to prove civil liability in a civil suit for property damage arising from the same incident. A plea of “no contest” cannot be used for that purpose. Further, if a defendant refuses to plead, the court is required to enter a plea of ‘not guilty’ on the defendant’s behalf.

A minor under age 17 must appear before the court in person with a parent or legal guardian to enter a plea in open court—it cannot be done by mail and fines cannot simply be paid without seeing the judge.

10. How do I pay the fine?

If a defendant pays the fine and court costs without explanation, the Court is authorized to accept the payment and enter a conviction as through the defendant had appeared in person and entered a plea of “nolo contendere” (“no contest”). A minor under age 17 cannot pay the fine without appearing in open court with a parent or legal guardian.

Fines can be paid by money order, cashier’s check, credit/debit card, and on TrafficPayment.com.

11. ALTERNATIVE 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 a \$25 time payment fee must be assessed.
- Disposition of the amount assessed by performing community service. There are many options that meet the requirements of the law for community service, see Art. 45.049 of the Code of Criminal Procedure 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 is entitled to a waiver of the fine and costs, in whole or in part. An indigence hearing may be necessary for a court order.

12. APPEAL

Convictions may be appealed to the County Court by posting an Appeal Bond with the Justice Court within ten days of the date of conviction. Convictions for traffic offenses are not subject to appeal after fine and court costs are paid.

13. WILL A CONVICTION SHOW ON MY DRIVING RECORD?

Convictions for certain offenses are reported to the Department of Public Safety in Austin and remain on your driving record for a period of time, including:

- All moving violations
- Driver's license violations
- Insurance violations
- Some seatbelt violations Vehicle inspection and vehicle registration violations are not moving violations.

14. CAN I TAKE A DRIVING SAFETY COURSE ("DSC") TO HAVE THE TICKET DISMISSED?

Both the driver and the offense must qualify for a driving safety course and certain requirements must be met, according to the Code of Criminal Procedure, Sec. 45.0511, YOU MUST: CONTACT THE COURT TO DETERMINE IF YOU ARE ELIGIBLE FOR A "DSC".

- The driver must hold a valid Class C non-commercial Texas driver's license
- The driver must have valid auto liability insurance.
- The driver must not have taken a driving safety course to dispose of a traffic offense within the previous 12 months
- The driver must not be currently taking a driving safety course to dispose of another offense in any other court.
- The request for DSC must be made on or before the appearance date on the ticket
- The driver must plead "guilty" or "nolo contendere" (no contest)
- The driver must pay the court costs plus a \$10 administrative fee with approved request
- Active Military and immediate family with out of State License/or permit may be eligible.
- The driver must provide satisfactory proof of completion of a certified driving safety course and a certified copy of the defendant's driving record obtained from the Department of Public Safety by 90-day deadline set by court.

Failure to provide all required documents to the court by deadline date will result in a conviction and payment of fine balance.

15. Offenses NOT eligible for discharge through a driving safety course include:

- Speeding 25 or more miles per hour over the posted speed limit.
- A speed of 95 MPH or greater.
- Construction or maintenance work zone violations (when workers are present)
- Failure to stop at the scene of an accident.
- Failure to give information or render aid.
- Reckless driving.
- Overtaking a school bus.
- Fleeing police.
- Offenses committed by a driver holding a Commercial Driver's License (CDL).

16. WHAT IS "DEFERRED DISPOSITION"?

Deferred disposition under Code of Criminal Procedure 45.051 is available for any misdemeanor case punishable by fine only, at any time prior to final disposition of the case. To qualify, the defendant must:

- Plead guilty or "no contest" in person or in writing, or be found guilty by the court
- Agree to the terms and conditions set by the court.
- Pay court costs, plus a "special expense" not to exceed the maximum amount of the fine.

- Comply with the court's requirements, which may include a driving safety course or any other "reasonable condition".
- Comply with the court's conditions and commit no moving violations during your probation period.

Failure to pay fees and costs or to comply with the court's conditions will result in a conviction.

17. I HAVE A COMMERCIAL DRIVER'S LICENSE (CDL) -CAN I STILL TAKE DSC OR DEFER MY TICKET?

Persons holding a Commercial Driver's License (CDL) are ineligible to discharge a violation through a defensive driving course or deferred disposition, even if the offense occurred while operating a non-commercial vehicle.

18. MY TICKET SAYS IT WAS ISSUED "IN A CONSTRUCTION ZONE WITH WORKERS PRESENT". DOES THAT MATTER?

Moving violations that occur in a location designated a "construction or maintenance work zone" where workers are actually present, are not eligible for discharge through a defensive driving course or deferred disposition, AND the fine amount is doubled. Court Costs are not doubled.