

STATE COUNSEL FOR OFFENDERS

LEGAL HANDBOOK



Twelfth Revised Edition

Texas Department of Criminal Justice

2016

Volume 2 of 2

DISCLAIMER

This handbook is a cooperative effort of the State Counsel for Offenders' (SCFO) employees and is created for intra-agency use within the Texas Department of Criminal Justice. It is in no way intended as an authoritative legal source to be substituted for legal advice for attorneys. Users may contact their unit law library or SCFO to ensure they have the latest edition.

LEGAL HANDBOOK

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OUTSIDE ASSISTANCE

The following organizations may be able to assist you with matters that SCFO cannot handle:

Texas Civil Rights Project

(litigates prison and jail conditions cases)
1405 Montopolis Drive
Austin, TX 78741

ACLU of Texas

Prison and Jail Accountability Project
P.O. Box 3629
Austin, TX 78764

Capital Punishment Center

(assists in representation of a limited number of people charged with or convicted of capital murder)

Texas Center for Actual Innocence

(no death penalty claims; DNA Motions and writs based on actual innocence)
University of Texas School of Law
727 E. Dean Keeton
Austin, TX 78705

West Texas Innocence Project

Texas Tech School of Law
1304 Texas Avenue
Lubbock, TX 78705

South Texas Innocence Project

South Texas College of Law
1303 San Jacinto
Houston, TX 77002

Mexican Capital Legal Assistance Project

(assists Mexican nationals facing the death penalty)
2520 Park Avenue South
Minneapolis, MN 55404

Mothers for the Advancement of Social Services

P.O. Box 225067
Dallas, TX 75222-5067

INNOCENCE CLINICS

See chapter 13 for additional information on innocence claims.

TEXAS CENTER FOR ACTUAL INNOCENCE

(no death penalty claims; DNA Motions and writs based on actual innocence)

University of Texas School of Law

727 E. Dean Keaton

Austin, TX 78705

INNOCENCE PROJECT OF TEXAS (IPOT) – TEXAS TECH LAW SCHOOL

(felony offense, crime took place and was prosecuted in Texas)

1511 Texas Avenue

Lubbock, TX 79401

SOUTH TEXAS WRONGFUL CONVICTIONS CLINIC

(clinic pairs South Texas with Innocence Project of Texas)

South Texas College of Law

1303 San Jacinto

Houston, TX 777002

THURGOOD MARSHALL SCHOOL OF LAW AND INNOCENCE PROJECT (TMSLIP)

Texas Southern University

Thurgood Marshall School of Law Innocence Project

Earl Carl Institute for Legal & Social Policy, Inc.

3100 Cleburne Street

Houston, TX 77004

UNIVERSITY OF HOUSTON LAW CENTER INNOCENCE PROJECT

University of Houston Law Center

4604 Calhoun Road

Houston, TX 77204

TEXAS A&M UNIVERISTY SCHOOL OF LAW INNOCENCE CLINIC

(claims of actual innocence in the Dallas/Ft. Worth area)

1515 Commerce Street

Ft. Worth, TX 76102

DEDMAN SCHOOL OF LAW INNOCENCE CLINIC

Southern Methodist University, Dedman School of Law

P.O. Box 750116

Dallas, TX 75275

JOYCE ANN BROWN INNOCENCE CLINIC

University of North Texas College of Law

1901 Main Street

Dallas, TX 75201

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Clerk of the _____ Court of Appeals
(Give full address)

RE: (Case Name; Your Appeal Cause Number)

Dear Sir/Madam;

On _____, 20__, my appeal attorney notified me that he/she filed an Anders brief was filed on my behalf as outlined in Anders v. California and further advised me of my right to file a pro se brief or response to the Anders brief. By this letter, I am giving you notice that I wish to file a pro se brief or response.

I also request an extension of time in which to file my brief or response since I have not had access to my Appellate Record or to a law library. Enclosed please find my first motion for extension of time. Please file and bring to the attention of the court.

Thank you for your consideration.

Respectfully,

Appellant, pro se
(Give full address and TDCJ-ID number)

APPEAL NO. _____

IN THE

_____ COURT OF APPEALS

AT _____, TEXAS

(YOUR NAME)

Appellant,

v.

THE STATE OF TEXAS

Appellee

APPEAL OF CAUSE NUMBER _____ FROM THE _____

JUDICIAL DISTRICT COURT OF _____ COUNTY

FIRST MOTION FOR EXTENSION OF TIME TO FILE
APPELLANT'S PRO SE BRIEF OR RESPONSE TO ANDER'S BRIEF

TO THE HONORABLE JUSTICES OF THE COURT OF APPEALS:

Comes now _____, Appellant pro se, and respectfully moves the Court to extend the deadline for filing his brief (or response) by 30 days. In support, Appellant would show the following:

I.

On _____ the jury (or judge) found Appellant guilty of _____. The jury (or judge) assessed punishment at _____ years imprisonment in the Texas Department of Criminal Justice.

II.

On _____, Appellant received notice by mail that his appeal attorney filed an Anders brief on his behalf and notice that Appellant had a right to file a pro se brief or response to the Anders brief.

III.

On _____, the appellate record was first made available to Appellant. The deadline for filing Appellant's brief or response is _____.

IV.

This is Appellant's first request for extension. Appellant is unable to meet the deadline for the following reasons: [list reasons why you need more time; i.e., limited access to legal library to a few hours a day, limited legal knowledge thereby slowing down your research, etc.]

V.

For the reasons stated above, Appellant respectfully requests an additional 30 days to complete the pro se brief or response in support of Appellant's appeal.

VI.

Appellant prays that the Court grant this motion and extend the time to file Appellant's pro se brief or response by 30 days, extending the deadline to _____.

Respectfully submitted,

Appellant, pro se
(Give address)

CERTIFICATE OF SERVICE

I hereby certify that on _____, 20____, a true and correct copy of Appellant’s motion for extension to file his brief or response was mailed to the attorney for the State by U.S. First Class mail addressed to _____ at (address) _____.

Appellant, pro se

I, _____, TDCJ # _____, being presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice - Institutional Division in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct. Executed on this the _____ day of _____, _____.

_____, TDCJ # _____

Honorable _____
Judge, _____ District Court
(Give full address)

RE: (Appeal Number, Trial Cause Number)

Dear Judge _____;

I received notice that my appeal attorney filed an Anders brief and was allowed by this court to withdraw from my appeal. I am enclosing a copy of my letter to the court of appeals notifying them that I wish to file a pro se brief or response.

By this letter, I am requesting that the appellate record be made available to me so that I may prepare a pro se brief or response to the Anders brief.

I request that the record (or a copy) be sent to TDCJ-ID so that I may use the writ room on my unit. If the District Clerk's copy is sent, I will see that it is returned. If this cannot be arranged, I request that I be bench-warranted back to the county and allowed access to the appellate record and a legal library.

Respectfully,

Appellant, pro se
(Give full address and TDCJ-ID number)

Encl.

_____, Clerk
Court of Criminal Appeals
(Give full address)

Dear Clerk:

Enclosed please find my pro se Defendant's Motion for Extension of Time to File Petition for Discretionary Review. Please file this Motion and bring it to the attention of the Court.

Please date-stamp this letter and return it to me at my address shown below.

I also request that you notify me of the Court's ruling on my Motion.

Sincerely,

Defendant, pro se
(Give full address and TDCJ-ID number)

Encl.

NO. _____

IN THE
COURT OF CRIMINAL APPEALS

[NAME]

V.

THE STATE OF TEXAS

From Appeal No. _____

Trial Cause No. _____

_____ County

FIRST MOTION FOR EXTENSION OF TIME TO FILE
PETITION FOR DISCRETIONARY REVIEW

TO THE HONORABLE JUDGES OF THE COURT OF CRIMINAL APPEALS:

Comes now, _____, Petitioner, and files this Motion for an extension of sixty (60) days in which to file a Petition for Discretionary Review. In support of this motion, appellant shows the Court the following:

I.

The Petitioner was convicted in the _____ District Court of _____ County, Texas of the offense of _____ in Cause No. _____, styled State of Texas vs. _____. The Petitioner appealed to the Court of Appeals, _____ Supreme Judicial District. The case was affirmed on _____.

II.

The present deadline for filing the Petition for Discretionary Review is _____. The Petitioner has not requested any extension prior to this request.

III.

Petitioner’s request for an extension is based upon the following facts: Petitioner was not informed of the decision of the court of appeals in affirming his case until _____. Since that time Petitioner has been attempting to gain legal representation in this matter. His attorney on the appeal, _____, has informed Petitioner that he will not represent him on the Petition for Discretionary Review.

WHEREFORE, Petitioner prays this Court grant this motion and extend the deadline for filing the Petition for Discretionary Review in Cause No. _____ to _____.

Petitioner, pro se
Texas Department of Criminal Justice -
Institutional Division
_____ Unit
TDCJ-ID # _____
_____, Texas _____

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing First Motion for Extension of Time to File a Petition for Discretionary Review, has been forwarded by U. S. Mail, postage prepaid, first class, to the Attorney for State, _____, at _____, and to the State Prosecuting Attorney, P. O. Box 13046, Austin, Texas 78711-3046 on this the _____ day of _____, 20_____.

Petitioner, pro se

I, _____, TDCJ # _____, being presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct. Executed on this the _____ day of _____, 20_____.

_____, TDCJ # _____

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certificate reciting the date upon which that finding was made, if the convicting court decides that there are no issues to be resolved. No copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made have been transmitted to the Court of Criminal Appeals. Had such documents been transmitted to the Court of Criminal Appeals by Respondent as required by statute, Relator would have received notice from the Court of Criminal Appeals.

II.

C. **RESPONDENT**

2.01 Respondent, _____, in her/his capacity as District Clerk of _____ County, Texas has a ministerial duty to receive and file all papers in a criminal proceeding, and perform all other duties imposed on the clerk by law pursuant to TCCP Art. 2.21, and is responsible under TCCP 11.07 Sec. 3(c) to immediately transmit to the Court of Criminal Appeals a copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made if the convicting court decides that there are no issues to be resolved. _____, District Clerk, _____ County may be served at her/his place of business at _____, _____, Texas _____.

III.

D. **VIOLATION OF ARTICLE 11.07 OF THE TEXAS CODE OF CRIMINAL PROCEDURE**

3.01 The Respondent violated Article 11.07 Section 3(c) of the Texas Code of Criminal Procedure by failing to provide a copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made to the

Court of Criminal Appeals within the time prescribed by law and within a reasonable time from the date on which the documents were requested to be transmitted.

- 3.02 Requests for the transmittal of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made were made by Relator to _____, District Clerk, _____ County, by certified mailed letters dated ___/___/___; ___/___/___; pursuant to Article 11.07 Section 3 (c) of the Code of Criminal Procedure. True and accurate copies of the above letters are attached hereto as Exhibits “A” through “___” and are incorporated by reference herein for all purposes.
- 3.03 To date, Relator has received no response from Respondent regarding Relator’s request for transmittal of a copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made to the Court of Criminal Appeals.
- 3.04 As is clear from Relator’s letters, Relator has repeatedly put Respondent on notice that Relator seeks the transmittal of a copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made to the Court of Criminal Appeals and that such records are required by the Court of Criminal Appeals to act on Relator’s writ of habeas corpus. Relator has gone well beyond any requirement or obligations imposed upon him by the Texas Code of Criminal Procedure. In contrast to Relator’s efforts, Respondent has wholly failed to comply with the Texas Code of Criminal Procedure, Article 11.07 Section 3(c), is acting in bad faith, and has also failed to afford Relator the professional and common courtesy of any written responses to his correspondence and requests.

3.05 Article 11.07 Section 3(c) clearly states that “[i]f the convicting court decides that there are no such issues, **the clerk shall immediately transmit** [emphasis added] to the Court of Criminal Appeals a copy of the application, any answers filed, and a certificate reciting the date upon which that finding was made. Failure of the court to act within the allowed 20 days shall constitute such a finding.” Texas Code of Criminal Procedure Article 11.07 Sec. 3(c). Respondent is in violation of this procedure, ministerial duties, and thus the laws of this state.

IV.

D. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Relator, _____, pro se, respectfully requests a finding that the Respondent did not transmit documents to the Court of Criminal Appeals within a reasonable time after the date they were requested and that Relator brought this litigation in good faith and has substantially prevailed. Relator prays for an Order directing Respondent to transmit copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that finding was made to the Court of Criminal Appeals as directed in Article 11.07 Section 3(c) of the Texas Code of Criminal Procedure and as requested in Relator’s letters (Exhibits “A” through “____”).

Respectfully submitted,

By: _____
RELATOR

CAUSE NO. _____

_____	§	IN THE _____ JUDICIAL
TDCJ-ID _____,	§	
RELATOR	§	
	§	
v.	§	DISTRICT COURT OF
	§	
_____ COUNTY DISTRICT CLERK:	§	
(FULL NAME)	§	
IN HER/HIS OFFICIAL CAPACITY,	§	
RESPONDENT	§	_____ COUNTY, TEXAS

ORDER

On this day, came on to be heard the foregoing Relator's Application for Writ of Mandamus and it appears to the Court that the same should be:

_____ GRANTED

IT IS THEREFORE ORDERED THAT the District Clerk shall immediately transmit to the Court of Criminal Appeals a copy of the application for writ of habeas corpus, any answers filed, and a certificate reciting the date upon which that transmittal was made.

SIGNED on this the _____ day of _____, 20_____.

PRESIDING JUDGE

District Clerk
_____ County Courthouse
_____, Texas _____

Re: Ex parte _____

Application for Writ of Habeas Corpus

Dear Sir or Madam:

Enclosed is the original and one copy of Applicant's Application for Writ of Habeas Corpus in the above-styled cause. Please file this and bring it to the attention of the Court. Please serve a copy of this application to the attorney representing the state as provided in the Texas Code of Criminal Procedure, art. 11.07.

Thank you for your assistance in this matter.

Sincerely,

Pro Se Offender
TDCJ-ID # _____

**COURT OF CRIMINAL APPEALS OF TEXAS
APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07**

INSTRUCTIONS

- 1. You must use the complete form, which begins on the following page, to file an application for a writ of habeas corpus seeking relief from a final felony conviction under Article 11.07 of the Code of Criminal Procedure. (This form is not for death-penalty cases, probated sentences which have not been revoked, or misdemeanors.)**
- 2. The district clerk of the county in which you were convicted will make this form available to you, on request, without charge.**
- 3. You must file the entire writ application form, including those sections that do not apply to you. If any pages are missing from the form, or if the questions have been renumbered or omitted, your entire application may be dismissed as non-compliant.**
- 4. You must make a separate application on a separate form for each judgment of conviction you seek relief from. Even if the judgments were entered in the same court on the same day, you must make a separate application for each one.**
- 5. Answer every item that applies to you on the form. Do not attach any additional pages for any item.**
- 6. You must include all grounds for relief on the application form as provided by the instructions under item 17. You must also briefly summarize the facts of your claim on the application form as provided by the instructions under item 17. Each ground shall begin on a new page, and the recitation of the facts supporting the ground shall be no longer than the two pages provided for the claim in the form.**
- 7. Legal citations and arguments may be made in a separate memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not.**
- 8. You must verify the application by signing either the Oath Before Notary Public or the Inmate's Declaration, which are at the end of this form on pages 11 and 12. You may be prosecuted and convicted for aggravated perjury if you make any false statement of a material fact in this application.**
- 9. When the application is fully completed, mail the original to the district clerk of the county of conviction. Keep a copy of the application for your records.**
- 10. You must notify the district clerk of the county of conviction of any change in address after you have filed your application.**

Case No. _____
(The Clerk of the convicting court will fill this line in.)

IN THE COURT OF CRIMINAL APPEALS OF TEXAS
APPLICATION FOR A WRIT OF HABEAS CORPUS
SEEKING RELIEF FROM FINAL FELONY CONVICTION
UNDER CODE OF CRIMINAL PROCEDURE, ARTICLE 11.07

NAME: _____

DATE OF BIRTH: _____

PLACE OF CONFINEMENT: _____

TDCJ-CID NUMBER: _____ **SID NUMBER:** _____

(1) **This application concerns** (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> a conviction | <input type="checkbox"/> parole |
| <input type="checkbox"/> a sentence | <input type="checkbox"/> mandatory supervision |
| <input type="checkbox"/> time credit | <input type="checkbox"/> out-of-time appeal or petition for discretionary review |

(2) **What district court entered the judgment of the conviction you want relief from?**
(Include the court number and county.)

(3) **What was the case number in the trial court?**

(4) **What was the name of the trial judge?**

(5) Were you represented by counsel? If yes, provide the attorney's name:

(6) What was the date that the judgment was entered?

(7) For what offense were you convicted and what was the sentence?

(8) If you were sentenced on more than one count of an indictment in the same court at the same time, what counts were you convicted of and what was the sentence in each count?

(9) What was the plea you entered? (Check one.)

- | | |
|---|---|
| <input type="checkbox"/> guilty-open plea | <input type="checkbox"/> guilty-plea bargain |
| <input type="checkbox"/> not guilty | <input type="checkbox"/> <i>nolo contendere</i> /no contest |

If you entered different pleas to counts in a multi-count indictment, please explain:

(10) What kind of trial did you have?

- | | |
|----------------------------------|---|
| <input type="checkbox"/> no jury | <input type="checkbox"/> jury for guilt and punishment |
| | <input type="checkbox"/> jury for guilt, judge for punishment |

(11) Did you testify at trial? If yes, at what phase of the trial did you testify?

(12) Did you appeal from the judgment of conviction?

yes

no

If you did appeal, answer the following questions:

(A) What court of appeals did you appeal to? _____

(B) What was the case number? _____

(C) Were you represented by counsel on appeal? If yes, provide the attorney's name:

(D) What was the decision and the date of the decision? _____

(13) Did you file a petition for discretionary review in the Court of Criminal Appeals?

yes

no

If you did file a petition for discretionary review, answer the following questions:

(A) What was the case number? _____

(B) What was the decision and the date of the decision? _____

(14) Have you previously filed an application for a writ of habeas corpus under Article 11.07 of the Texas Code of Criminal Procedure challenging *this conviction*?

yes

no

If you answered yes, answer the following questions:

(A) What was the Court of Criminal Appeals' writ number? _____

(17) **Beginning on page 6, state *concisely* every legal ground for your claim that you are being unlawfully restrained, and then briefly summarize the facts supporting each ground. You must present each ground on the form application and a brief summary of the facts. *If your grounds and brief summary of the facts have not been presented on the form application, the Court will not consider your grounds.* If you have more than four grounds, use pages 14 and 15 of the form, which you may copy as many times as needed to give you a separate page for each ground, with each ground numbered in sequence. The recitation of the facts supporting each ground must be no longer than the two pages provided for the ground in the form.**

You may include with the form a memorandum of law if you want to present legal authorities, but the Court will *not* consider grounds for relief set out in a memorandum of law that were not raised on the form. The citations and argument must be in a memorandum that complies with Texas Rule of Appellate Procedure 73 and does not exceed 15,000 words if computer-generated or 50 pages if not. If you are challenging the validity of your conviction, please include a summary of the facts pertaining to your offense and trial in your memorandum.

WHEREFORE, APPLICANT PRAYS THAT THE COURT GRANT APPLICANT RELIEF TO WHICH HE MAY BE ENTITLED IN THIS PROCEEDING.

VERIFICATION

This application must be verified or it will be dismissed for non-compliance. For verification purposes, an applicant is a person filing the application on his or her own behalf. A petitioner is a person filing the application on behalf of an applicant, for example, an applicant's attorney. An inmate is a person who is in custody.

The inmate applicant must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public. If the inmate is represented by a licensed attorney, the attorney may sign the "Oath Before a Notary Public" as petitioner and then complete "Petitioner's Information." A non-inmate applicant must sign the "Oath Before a Notary Public" before a notary public unless he is represented by a licensed attorney, in which case the attorney may sign the verification as petitioner.

A non-inmate non-attorney petitioner must sign the "Oath Before a Notary Public" before a notary public and must also complete "Petitioner's Information." An inmate petitioner must sign either the "Oath Before a Notary Public" before a notary public or the "Inmate's Declaration" without a notary public and must also complete the appropriate "Petitioner's Information."

OATH BEFORE A NOTARY PUBLIC

STATE OF TEXAS

COUNTY OF _____

_____, being duly sworn, under oath says: "I am the applicant / petitioner (circle one) in this action and know the contents of the above application for a writ of habeas corpus and, according to my belief, the facts stated in the application are true."

Signature of Applicant / Petitioner (circle one)

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____, 20_____.

Signature of Notary Public

PETITIONER'S INFORMATION

Petitioner's printed name: _____

State bar number, if applicable: _____

Address: _____

Telephone: _____

Fax: _____

INMATE'S DECLARATION

I, _____, am the applicant / petitioner (circle one) and being presently incarcerated in _____, declare under penalty of perjury that, according to my belief, the facts stated in the above application are true and correct.

Signed on _____, 20____.

Signature of Applicant / Petitioner (circle one)

PETITIONER'S INFORMATION

Petitioner's printed name: _____

Address: _____

Telephone: _____

Fax: _____

Signed on _____, 20____.

Signature of Petitioner

SCFO

COUNTIES IN THE WESTERN DISTRICT OF TEXAS

Andrews	Ector	Kimble	Presidio
Atascosa	Edwards	Kinney	Reasl
Bandera	El Paso	Lampasas	Reeves
Bastrop	Falls	Lee	Robertson
Bell	Freestone	Leon	San Saba
Bexar	Frio	Limestone	Somervell
Blanco	Gillespie	Llano	Terrell
Bosque	Gonzales	Loving	Travis
Brewster	Guadalupe	Martin	Upton
Burleson	Hamilton	Mason	Uvalde
Burnet	Hays	Maverick	Val Verde
Caldwell	Hill	McCulloch	Ward
Comal	Hudspeth	McLennan	Washington
Coryell	Jeff Davis	Medina	Williamson
Crane	Karnes	Midland	Wilson
Culberson	Kendall	Milam	Winkler
Dimmit	Kerr	Pecos	Zavala

COUNTIES IN THE SOUTHERN DISTRICT OF TEXAS

Aransas	<u>Fayette</u>	Kleberg	San Patricio
Austin	<u>Fort Bend</u>	La Salle	Starr
Bee	Galveston	Lavaca	Victoria
Brazoria	Goliad	Live Oak	<u>Walker</u>
Brazos	Grimes	Madison	<u>Waller</u>
Brooks	<u>Harris</u>	Matagorda	Webb
Calhoun	Hidalgo	McMullen	Wharton
Chambers	Jackson	<u>Montgomery</u>	Willacy
<u>Colorado</u>	Jim Hogg	Nueces	Zapata
DeWitt	Jim Wells	Refugio	
Duval	Kenedy	<u>San Jacinto</u>	

COUNTIES IN THE EASTERN DISTRICT OF TEXAS

Anderson	Franklin	Liberty	Sabine
Angelina	Grayson	Marion	San Augustine
Bowie	Gregg	Morris	Shelby
Camp	Hardin	Nacogdoches	Smith
Cass	Harrison	Newton	Titus
Cherokee	Henderson	Orange	Trinity
Collin	Hopkins	Panola	Tyler
Cooke	Houston	Polk	Upshur
Delta	Jasper	Rains	Van Zandt
Denton	Jefferson	Red River	Wood
Fannin	Lamar	Rusk	

COUNTIES IN THE NORTHERN DISTRICT OF TEXAS

Archer	Comanche	Gaines	Irion
Armstrong	Concho	Garza	Jack
Bailey	Cottle	Glasscock	Johnson
Baylor	Crockett	Gray	Jones
Borden	Crosby	Hale	Kaufman
Briscoe	Dallam	Hall	Kent
Brown	Dallas	Hansford	King
Callahan	Deaf Smith	Hardeman	Knox
Carson	Dickens	Hartley	Lamb
Castro	Donley	Haskell	Lipscomb
Childress	Eastland	Hemphill	Lubbock
Clay	Ellis	Hockley	Lynn
Cochran	Erath	Hood	Menard
Coke	Fisher	Howard	Mills
Coleman	Floyd	Hunt	Mitchell
Collingsworth	Foard	Hutchinson	Montague
			Moore

Motley	Randall	Stephens	Tom Green
Navarro	Reagan	Sterling	Wheeler
Nolan	Roberts	Stonewall	Wichita
Ochiltree	Rockwell	Sutton	Wilbarger
Oldham	Runnels	Swisher	Wise
Palo Pinto	Schleicher	Tarrant	Yoakum
Parker	Scurry	Taylor	Young
Parmer	Shakelford	Terry	
Potter	Sherman	Throckmorton	

SCFO

FLOW CHART

STATE WRIT OF HABEAS CORPUS (11.07) (DENIAL AT EVERY LEVEL)

FILE STATE WRIT WITH STATE DISTRICT COURT (TRIAL COURT)

SHOULD FILE IMMEDIATELY BECAUSE FEDERAL WRIT HAS TO BE FILED WITHIN 1 YEAR OF FINAL CONVICTION, NOT INCLUDING PENDING ACTIONS, SUCH AS DIRECT APPEAL OR STATE WRIT. BEFORE FILING READ CHAPTER 4 OF THE SCFO LEGAL HANDBOOK.

15 DAYS – STATE’S ANSWER, IF ANY

20 DAYS – TRIAL COURT DECIDES IF ANY FACTS IN CONTROVERSY

STATE DISTRICT COURT FINDS NO ISSUES

WRIT SENT TO TEXAS COURT OF CRIMINAL APPEALS

COURT OF CRIMINAL APPEALS DENIES STATE WRIT OF HABEAS CORPUS

FILE FEDERAL WRIT OF HABEAS CORPUS IN U. S. DISTRICT COURT

YOU MUST HAVE EXHAUSTED YOUR STATE REMEDIES BEFORE FILING A FEDERAL WRIT OF HABEAS CORPUS; THEREFORE, YOU MUST HAVE FILED AND RECEIVED A DENIAL ON AN 11.07 STATE WRIT BEFORE FILING A FEDERAL WRIT IN U. S. DISTRICT COURT.

STATE’S REPLY, IF ANY (TIME FRAME DETERMINED BY THE COURT)

U. S. DISTRICT COURT DENIES FEDERAL WRIT

30 DAYS – FILE NOTICE OF APPEAL, MOTION FOR CERTIFICATE OF APPEALABILITY WITH BRIEF & APPLICATION IN FORMA PAUPERIS WITH U. S. DISTRICT COURT

DENIAL OF MOTION FOR CERTIFICATE OF APPEALABILITY AND/OR APPLICATION IN FORMA PAUPERIS BY U. S. DISTRICT COURT

FILE MOTION FOR CERTIFICATE OF APPEALABILITY WITH BRIEF & APPLICATION IN FORMA PAUPERIS DIRECTLY WITH U. S. 5TH CIRCUIT

5TH CIRCUIT OPINION – DENIAL

90 DAYS – FILE WRIT OF CERTIORARI TO U.S. SUPREME COURT

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
CORRECTIONAL INSTITUTIONS DIVISION**

(Date)

Sheriff's Office

_____ County
_____, Texas _____

Dear Sir;

Notations have been made on our records showing that our

Name: _____

No. : _____

Your: _____

will be wanted by your office upon release from this institution.

You will be notified prior to the release of this subject so that you may have an officer(s) here to take him into custody.

Minimum Discharge Date : _____

Mandatory Discharge Date : _____

Parole Eligibility Date: _____

Yours very truly,

State Classification Committee
Classifications and Records

By: _____, Deputy

cc: Board of Pardons and Paroles
Austin, Texas
Unit Warden
Offender
File

**THIS IS A SAMPLE NOTICE TDCJ SENDS TO COUNTIES
(WITH COPIES TO OFFENDERS)**

Office of the District Attorney
_____ County Courthouse
_____, Texas _____

Dear Sir;

A detainer has been placed on me by the Texas Department of Criminal Justice for your Case No. _____. I respectfully request that you either have me bench warranted back to stand trial or dismiss the charges. Having a detainer is harmful to my rehabilitation and, in addition, an excessive delay will prevent me from effectively defending myself.

Sincerely,

Defendant, pro se

TDCJ # _____
Texas Department of Criminal Justice
_____ Unit

P. O. Box _____ (or Rural Route)
_____, Texas _____

**TEXAS
DEPARTMENT OF CRIMINAL JUSTICE**

HUNTSVILLE, TEXAS 77340
NOTICE OF UNTRIED INDICTMENT, INFORMATION OR COMPLAINT
AND OF RIGHT TO REQUEST DISPOSITION

Offender _____ No. _____ Inst. _____

Pursuant to the Agreement on Detainers, you are hereby informed that the following are the untried indictments, informations or complaints against you concerning which the undersigned has knowledge, and the source and contest of each.

You are hereby further advised that by the provisions of said agreement you have the right to request the appropriate prosecuting officer of the jurisdiction in which any such indictment, information or complaint is pending and the appropriate court that a final disposition be made thereof. You shall then be brought to trial within 180 days, unless extended pursuant to provisions of the agreement, after you have caused to be delivered to said prosecuting officer of said court written notice of the place of your imprisonment and your said request, together with a certificate of the custodial authority as more fully set forth in said agreement. However, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

Your request for final disposition will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against you from the state to whose prosecuting official your request for final disposition is specifically directed. Your request will also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein and a waiver of extradition to the state of trial to serve any sentence there imposed upon you, after completion of your term of imprisonment in this state. Your request will also constitute a consent by you to the production of your body in any court where your presence may be required in order to effectuate the purposes of the Agreement on Detainers and a further consent voluntarily to be returned to the institution in which you are now confined.

Should you desire such a request for final disposition of any untried indictment, information or complaint you are to notify _____.

You are also advised that under provision of said Agreement, the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is pending may institute proceedings to obtain a final disposition thereof. In such event, you may oppose the request that you be delivered to such prosecuting officer or court. You may request the Governor of this state to disapprove any such request for your temporary custody, but you cannot oppose delivery on the grounds that the Governor has not affirmatively consented to or ordered such delivery.

DATED: _____
State Classification Committee

RECEIVED

DATE: _____
OFFENDER _____ No. _____

RETURN ALL COPIES AND ORIGINAL TO RECORDS OFFICE - HUNTSVILLE

You are also advised that under provision of said Agreement, the prosecuting officer of a jurisdiction in which any such indictment, information or complaint is pending may institute proceedings to obtain a final disposition thereof. In such event, you may oppose the request that you be delivered to such prosecuting officer or court. You may request the Governor of this state to disapprove any such request for your temporary custody, but you cannot oppose delivery on the grounds that the Governor has not affirmatively consented to or ordered such delivery. You are statutorily entitled to the procedural protections provided in state extradition laws.

BY: _____

Administrator
Interstate Agreement on Detainers

SCFO

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
INSTITUTIONAL DIVISION
HUNTSVILLE, TEXAS 77340**

**OFFENDER'S NOTICE OF PLACE OF IMPRISONMENT AND
REQUEST FOR DISPOSITION OF INDICTMENTS
INFORMATIONS OR COMPLAINTS**

TO: _____, Prosecuting Officer, _____
_____, Court _____ (Jurisdiction)
_____, Court _____ (Jurisdiction)

And to all other prosecuting officers and courts of jurisdiction listed below from which indictments, informations or complaint are pending.

You are hereby notified that the undersigned is now imprisoned in

_____ at _____
(Institution) (Town and State)

and I hereby request that final disposition be made of the following indictments, informations or complaints now pending against me:

Failure to take action in accordance with the Agreement on Detainers, to which your state is committed by law, will result in the invalidation of the indictments, informations or complaints.

I hereby agree that this request will operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against me from your state. I also agree that this request shall be deemed to be my waiver of extradition with respect to any charges or proceedings contemplated hereby or included herein, and a waiver of extradition to your state to serve any sentence there imposed upon me, after completion of my imprisonment in this state. I also agree that this request shall constitute a consent by me to the production of my body in any court where my presence may be required in order to effectuate the purposes of the Agreement on Detainers and a further consent voluntarily to be returned to the institution in which I now am confined.

If jurisdiction over this matter is properly in another agency, court or office, please designate the proper agency, court or officer and return this form to the sender.

The required Certificate of Offender Status and Offer of Temporary Custody are attached.

DATE: _____ OFFENDER NAME AND NUMBER _____

A. My counsel is _____
whose address is _____

B. I request the court to appoint counsel.

(Offender's Signature)

NOTICE TO OFFENDER

Return this form to Records Office, Huntsville, Texas

EXPLANATION OF OFFENDER'S RIGHTS UNDER ARTICLE IV
OF THE AGREEMENT ON DETAINERS

1. You have the right to be taken before a court to be arraigned.
2. You have the right to the appointment of counsel by the Court.
3. You have the right to file a petition for writ of habeas corpus in which you may allege:
 - a. That you are not the same person whose custody has been demanded by the prosecutor.
 - b. That there are no outstanding indictments, information, or complaints pending against you in the other state.
 - c. That the demand for your custody is not in proper form.
4. If you have questions in regard to your status under the Interstate Agreement on Detainers, you may contact the Interstate Agreement Administrator or the State Counsel for Offenders attorney assigned to your unit.

SCFO

CAUSE NO. _____

THE STATE OF TEXAS

§
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§

_____ COURT

VS.

IN AND FOR

_____ COUNTY, TEXAS

**DEFENDANT’S MOTION FOR
SPEEDY REVOCATION HEARING**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW _____, Defendant in the above entitled and numbered cause, and moves this Court to grant a speedy revocation hearing and in support of this Motion would show the court the following:

I.

The Defendant in the above entitled cause is presently confined in the Texas Department of Criminal Justice (TDCJ), under a conviction for _____. Defendant was sentenced to a term of _____ years imprisonment, said term to begin on _____. The Defendant’s minimum discharge date from TDCJ is _____.

II.

A detainer is presently on file against the Defendant whereby the authorities of _____ County have indicated a desire to revoke probation upon a judgment of conviction for the offense of _____. Said charge is presently pending in the _____ Court of said county. Said detainer will continue to act to diminish Defendant’s chance of improving trusty status, receiving parole, and participating in other rehabilitation programs within TDCJ. Further, such a detainer creates anxiety and interferes with Defendant’s rehabilitation. A copy of said detainer is attached hereto and made a part of these pleadings.

III.

According to Article 42.12, §21(b) of the Texas Code of Criminal Procedure, on motion by the defendant, the court shall cause the defendant to be brought before it for a hearing within 20 days of the filing of said motion, and after a hearing without a jury, may either continue, modify, or revoke the probation.

Under the decision of Gagnon v. Scarpelli, 411 U.S. 778 (1973), Carney v. State, 573 S.W.2d 24 (Tex. Crim. App. 1978) and Barker v. Wingo, 92 S.Ct. 2182 (1972), a probationer is entitled to a speedy probation revocation hearing. By this authority, the defendant requests a revocation hearing within 20 days from the date of the filing of this motion.

IV.

The Warden of the _____ Unit, TDCJ, will release the Defendant into the custody of the authorities of _____ County upon issuance of a writ of habeas corpus ad prosequendum or bench warrant with the agreement and understanding that after the Defendant has been accorded a speedy trial in this cause, the Defendant will be returned by the authorities of _____ County into the custody of TDCJ where the Defendant now stands duly committed by law.

WHEREFORE, the Defendant urges that this Court, wherein the above captioned cause is pending, issue an order in the nature of a bench warrant or writ of habeas corpus ad prosequendum directing the prosecuting officials of _____ County to produce the body of the Defendant before this Court within 20 days from the filing of this Motion so that a speedy trial may be accorded the Defendant in this cause. In the alternative, the Defendant prays that the Court dismiss the Motion for Revocation for want of prosecution.

Respectfully submitted,

Defendant, Pro Se

TDCJ # _____
Texas Department of Criminal Justice

P.O. Box _____ (or Rural Route)
_____, Texas _____

CAUSE NO. _____

THE STATE OF TEXAS

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_____ COURT

VS.

IN AND FOR

_____ COUNTY, TEXAS

ORDER

On this the _____ day of _____, 20____, came on to be heard the Defendant's Motion for Speedy Revocation Hearing and after due consideration of the same it is,

ORDERED that the Defendant's request for a hearing is (GRANTED / DENIED); and that said cause is set for hearing on the _____ day of _____, _____; and it is further

ORDERED that the Defendant's Motion to Dismiss the above styled and numbered cause is (GRANTED / DENIED); and that it is further

ORDERED that the District Clerk prepare for the Court's signature the necessary instruments to Bench Warrant the Defendant to this county for said trial.

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I, _____, do hereby certify that a true and correct copy of the Defendant's Motion for Speedy Revocation Hearing and Order, has been forwarded by United States Mail, postage prepaid, first class, to the _____ Attorney for _____ County, Texas, _____ Courthouse, _____, Texas _____, on this the _____ day of _____, 20_____.

[Your name] DEFENDANT, pro se
TDCJ # _____

Texas Department of Criminal Justice

Unit
P. O. Box _____ (or Rural Route)
_____, Texas _____

CAUSE NO. _____

THE STATE OF TEXAS

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_____ COURT

V.

IN AND FOR

_____ COUNTY, TEXAS

**DEFENDANT’S MOTION TO DISMISS
STATE’S MOTION TO REVOKE COMMUNITY SUPERVISION (PROBATION)**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW _____, Defendant in the above entitled and numbered cause, and moves this Court to dismiss the Motion to Revoke Community Supervision filed herein, and in support of such Motion shows:

I.

Defendant was granted community supervision in this cause on _____, 20____.

II.

Defendant is presently incarcerated at the Texas Department of Criminal Justice. A detainer has been lodged against the Defendant in association with the state’s motion to revoke community supervision.

III.

On _____, 20____, Defendant filed a motion for a speedy revocation hearing. The state has failed to conduct a speedy revocation hearing as required.

IV.

Therefore, Defendant’s right to a speedy revocation hearing, as guaranteed by the Sixth Amendment to the United States Constitution and Article I, Section 10, of the Texas Constitution, has been denied, and Defendant is entitled to a dismissal of the motion to revoke community supervision filed on _____, 20____, in this cause.

WHEREFORE, the Defendant prays the court grant this Motion and dismiss the above mentioned motion to revoke community supervision because of the state’s failure to provide the Defendant a speedy revocation hearing.

Respectfully submitted,

DEFENDANT, Pro Se

CAUSE NO. _____

THE STATE OF TEXAS

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_____ COURT

V.

IN AND FOR

_____ COUNTY, TEXAS

ORDER

On this the _____ day of _____, 20_____, came on to be heard the Defendant's Motion to Dismiss State's Motion to Revoke Community Supervision and after due consideration of the same it is,

ORDERED that this Motion should be (GRANTED / DENIED).

JUDGE PRESIDING

SCFO

CERTIFICATE OF SERVICE

I, _____, do hereby certify that a true and correct copy of the foregoing Defendant's Motion to Dismiss State's Motion to Revoke Community Supervision and Order, has been forwarded by United States Mail, postage prepaid, first class, to the _____ Prosecuting Attorney, _____ County, Texas _____ County Courthouse, _____, Texas _____, on this the _____ day of _____, 20_____.

[Your name] DEFENDANT, pro se
TDCJ # _____

Texas Department of Criminal Justice
_____ Unit

P. O. Box _____ (or Rural Route)
_____, Texas _____

Date: _____

District/County Clerk

Re: _____
Cause No. _____

Dear Clerk:

Enclosed please find Movant's Motion for Court Appointed Counsel, Order, and Declaration in Support of Right to Representation by Counsel in the above-styled and numbered cause. Please file these papers and bring them to the attention of the Court.

Your assistance in this matter is greatly appreciated.

Sincerely,

DEFENDANT, Pro Se

Printed name: _____

TDCJ No. _____

TDCJ Unit _____

Address, Route and/or Box Number
_____, Texas _____

Enclosures
cc: File

CAUSE NO. _____

THE STATE OF TEXAS

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IN THE _____

V.

COURT OF _____

DEFENDANT
TDCJ# _____
DATE OF BIRTH _____

_____ COUNTY, TEXAS

**REQUEST FOR COURT APPOINTED COUNSEL
PURSUANT TO ARTICLE 1.051, TEXAS CODE OF CRIMINAL PROCEDURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the Defendant, _____,
TDCJ# _____, and requests that the Court appoint counsel to assist him in
resolving pending charges in the above-styled cause pursuant to Tex. Code Crim. Proc. art, 1.051.
Article 1.051(c) states as follows: “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...” Defendant’s Declaration in Support of Right to Representation of Counsel is
attached and incorporated hereto as Exhibit 1.

Respectfully submitted,

DEFENDANT, Pro Se
Printed name: _____
TDCJ No. _____
TDCJ Unit _____

Address, Route and/or Box Number
_____, Texas _____

EXHIBIT 1

DECLARATION IN SUPPORT OF

RIGHT TO REPRESENTATION BY COUNSEL

ART 1.051, TEXAS CODE CRIMINAL PROCEDURE

The following Declaration is in support of Article 1.051 Right to Representation by Counsel in the Texas Code of Criminal Procedure.

Now respectfully comes _____, TDCJ # _____, and declares that I am unable to pay the court cost in this action and requests leave of the Court to proceed in forma pauperis in this accompanying action and would show the Court the following:

- (1) I am presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$ _____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$ _____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$ _____.
- (8) I owe \$ _____ as restitution.
- (9) My monthly expenses are approximately \$ _____.

I, _____
TDCJ# _____, being presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct, Executed on this the _____ day of _____, 20_____.

Signature _____
Printed name: _____
TDCJ# _____

CAUSE NO. _____

THE STATE OF TEXAS

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IN THE _____

V.

DEFENDANT
TDCJ# _____
DATE OF BIRTH _____

COURT OF _____

_____ COUNTY, TEXAS

ORDER: APPOINTMENT OF COUNSEL

CAME ON this day for consideration, the Defendant's request for appointment of counsel to assist him in resolving pending charges in the above-styled cause pursuant to Tex. Code Crim, Proc. art. 1.051. The Court has reviewed Defendant's Declaration in Support of Right to Representation by Counsel in this matter and it is hereby:

ORDERED that an attorney shall be appointed to represent Defendant pursuant to Tex. Code Crim, Proc. art. 1.051. Accordingly, the following attorney is hereby appointed and instructed to contact his/her client regarding this matter:

NAME: _____

ADDRESS: _____

IT IS FURTHER ORDERED that a copy of this Order shall be sent to the Defendant by the Clerk of this Court.

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I certify that copy of the foregoing Motion for Court Appointed Counsel, Exhibit 1, and Order have been mailed, certified mail, return-receipt requested/hand delivered to _____ Prosecutor for the State at _____ (address) on this the _____ day of _____, 20_____.

Defendant, Pro se
Printed name: _____
TDCJ No. _____
TDCJ Unit _____

Address, Route and/or Box Number
_____ Texas _____

SCFO

CAUSE NO. _____

THE STATE OF TEXAS VS. _____	§ § § § §	IN THE _____ DISTRICT COURT _____ COUNTY, TEXAS _____ JUDICIAL DISTRICT
--	-----------------------	---

MOTION FOR SPEEDY TRIAL

TO THE HONORABLE JUDGE OF SAID COURT:

_____, Defendant, moves the Court to order a speedy trial, and in support of this motion shows:

I.

An indictment in this action has been presented. Defendant is currently an inmate at TDCJ, a detainer was placed on the Defendant by _____ County of _____.

II.

Defendant has previously written the Court seeking appointment of counsel and speedy resolution of his pending charges. To date, Defendant has not heard anything from the Court concerning this prior request.

III.

Defendant seeks a speedy trial in order that justice may be done and that he be accorded due process and due course of law as respectively guaranteed by the United States and Texas Constitutions. *See, Barker v. Wingo*, 92 S.Ct. 2182 (1972). Defendant asserts that any further delay would result in irreparable harm due to the loss of witnesses necessary to his defense.

WHEREFORE, the Defendant prays the Court grant this motion and order that trial in this matter be set for a date on or before _____, or, if trial is not set on or before

said date, that the indictment herein be dismissed on the ground that the Defendant has been denied his constitutional right to a speedy trial.

Respectfully submitted,

DEFENDANT, Pro Se

Printed name: _____

TDCJ No. _____

TDCJ Unit _____

Address, Route and/or Box Number

_____, Texas _____

SCFO

CAUSE NO. _____

THE STATE OF TEXAS

VS.

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IN THE _____ DISTRICT COURT

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

ORDER

On this the _____ day of _____, 20_____, came on to be heard Defendant's Motion for Speedy Trial, and it appears to the Court that this matter should be set for trial.

IT IS, THEREFORE, ORDERED that trial in this matter be set for _____, 20_____.

JUDGE PRESIDING

CAUSE NO. _____

THE STATE OF TEXAS

VS.

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IN THE _____ DISTRICT COURT

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

ORDER

On this the _____ day of _____, 20_____, came on to be heard the Defendant's Motion for Speedy Trial, and it appears to the Court, that the Defendant has been denied his constitutional right to a speedy trial in this cause and the indictment should be dismissed.

IT IS THEREFORE, ORDERED that that indictment in cause number _____ be dismissed.

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I, certify that a copy of the foregoing Motion for Speedy Trial and Orders have been mailed, certified mail, return-receipt requested/hand delivered to _____
Prosecutor for the State at _____(address), on this the _____ day
of _____, 20_____.

Defendant, Pro se

Printed name: _____

TDCJ No. _____

TDCJ Unit _____

Address, Route and/or Box Number

_____ Texas _____

SCFO

CAUSE NO. _____

THE STATE OF TEXAS

§
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§

_____ COURT

VS.

IN AND FOR

_____ COUNTY, TEXAS

MOTION FOR BENCH WARRANT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, _____, (Petitioner) in the above styled and number cause and states:

“My name is _____ (Petitioner), my offender number is: _____. I am competent to make this affidavit, I am presently incarcerated in the _____ unit located at _____ in _____ (City), _____ (State). I request the court to issue a Warrant from the Bench ordering the Sheriff of _____ (Name of County in which you are incarcerated) County, to transport me to this Court for hearing in this matter so that I may give testimony.

PRAYER

Petitioner respectfully prays that this Court grant this motion and order the Sheriff of _____ County to transport Petitioner to the hearing of this cause.

Respectfully submitted,

Petitioner, Pro Se
Printed name: _____
TDCJ No. _____
TDCJ Unit _____

_____, Texas _____

CAUSE NO. _____

THE STATE OF TEXAS

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_____ COURT

VS.

IN AND FOR

_____ COUNTY, TEXAS

ORDER

On this the _____ day of _____, 20____, came on to be heard the Defendant's Request for Bench Warrant and after due consideration of the same it is,

ORDERED that the Defendant's request for a hearing is (GRANTED / DENIED); and that said cause is set for hearing on the _____ day of _____, _____; and it is further;

ORDERED that the Defendant's request for bench warrant is (GRANTED / DENIED); and the Clerk of the Court is to notify said Defendant regarding the Bench Warrant of the Defendant to this county for said trial.

JUDGE PRESIDING

CERTIFICATE OF SERVICE

I, _____, do hereby certify that a true and correct copy of the above and foregoing Defendant's Motion for Bench Warrant and Order have been forwarded by United States Mail, postage prepaid, first class to the _____ Prosecuting Attorney for _____ County, Texas _____ Courthouse, _____, Texas _____, on this the _____ day of _____, 20_____.

Defendant, Pro se

Printed name: _____

TDCJ No. _____

TDCJ Unit _____

Address, Route and/or Box Number

Texas _____

STATE COUNSEL FOR OFFENDERS
JAIL TIME QUESTIONNAIRE

TDCJ Name _____

TDCJ No. _____ TDCJ Unit _____ Date _____

Date of Birth _____ Social Security No. _____

List ALL other names that you were arrested under for the offense(s) you are currently serving.

In order for this office to provide assistance to you regarding your jail time credits it will be necessary for you to complete this questionnaire form. After you have filled out this form you may mail it to this office. The address is: State Counsel for Offenders, Legal Services, P.O. Box 4005, Huntsville, TX 77342-4005. The TDCJ TRUCK MAIL system may be used to mail this form. Should you require more space, please use an additional sheet of paper and enclose it when you mail this form. **This office cannot process this form unless you provide your NAME and TDCJ NUMBER.**

- (1) Is this your first time in TDCJ with the TDCJ number that you now have? Y / N
- (2) If the answer is no, were you released under the TDCJ number that you now have on parole/mandatory supervision? Y / N When?

- (3) If the answer is yes, how many times have you been released under your present TDCJ number on parole/mandatory supervision?

When were you released and from where? _____

- (4) Have you ever been released on a PIA (Parole in Absentia)? Y / N If so, what was your PIA No. and when and from where were you released on PIA? _____

- (5) Have you ever served time in a SAIP (Special Alternative Incarceration Program), boot camp, or received Shock Probation? Y / N
If so, when? _____
Where? _____
- (6) Have you ever served time in an **ISF (Intermediate Sanction Facility)**? Y / N If so, was it due to parole/mandatory supervision violation **OR** probation violation? _____
When? _____
Where? _____
- (7) Have you ever served time in a **SAFP-TF (Substance Abuse Felony Punishment-Treatment Facility)**? Y / N Were you in the facility as a condition of probation **OR** parole/mandatory supervision modification? _____
 - a. If it was for condition of probation, were you initially placed on deferred adjudication on or after 09/01/2007? Y / N
 - b. Did you successfully complete the SAFP-TF program? Y / N
- (8) Have you ever had a detainer or "hold" placed for the case you feel that you are missing jail time credit on? Y / N If the answer is yes, when was the detainer or "hold" placed and where were you incarcerated when it was placed?

- (9) Have you ever served time in a Federal Penitentiary or other state prison? Y / N If so, what was your ID number?
_____(federal number) _____(other state prison number)
- (10) Have you filed a complaint with TDCJ under the Dispute Resolution system? Y / N If the answer is yes, please explain and

provide us with a copy of the TDCJ response to your complaint. _____

(11) Have you filed a jail time Writ, a Writ of Habeas Corpus, an Appeal, or any other action with the Court? Y / N If the answer is yes, please explain and provide us with a copy. _____

(12) Is there anything pending with the Court? Y / N If the answer is yes, please explain and provide us with a copy. _____

(13) Did you sign a Plea Bargain agreement? _____

BRIEFLY PROVIDE DETAILS ON EXACTLY WHAT JAIL TIME YOU FEEL YOU HAVE NOT RECEIVED CREDIT FOR

Below list ALL the dates you have been in custody on this case or cases. You must list the place where you were arrested and the month and year you were arrested. If you cannot remember, take a guess.

ARREST DATES	RELEASE DATES	CITY/COUNTY/STATE ARRESTED? WHAT JAIL?	REASON FOR RELEASE

RETURN THIS COMPLETED FORM TO: STATE COUNSEL FOR OFFENDERS

GOOD CONDUCT TIME CALCULATION SHEET

Pre-70th

SAT & LINE	GOOD TIME	EDUCATION	TOTAL	PERCENT
SAT II	45	0	45	1.5
SAT II A	45	5	50	1.667
SAT II B	45	10	55	1.833
SAT II C	45	15	60	2
SAT III	45	0	45	1.5
SAT III A	45	5	50	1.667
SAT III B	45	10	55	1.833
SAT III C	45	15	60	2
SAT IV	40	0	40	1.33
SAT IV A	40	5	45	1.5
SAT IV B	40	10	50	1.667
SAT IV C	40	15	55	1.833
LINE I	20	0	20	.667
LINE I A	20	5	25	.833
LINE I B	20	10	30	1.0
LINE I C	20	15	35	1.16
LINE II	10	0	10	.33
LINE II A	10	5	15	.5
LINE II B	10	10	20	.667
LINE II C	10	15	5	.833
LINE III (A,B,C)	0	0	0	0

Post 70th

SAT & LINE	GOOD TIME	WORK	TOTAL	PERCENT
SAT II	30	1.0	15.545	1.5
SAT III	30	1.0	15.545	1.5
SAT IV	25	.833	15.540	1.33
LINE I	20	.667	15.535	1.16
LINE II	10	.33	15.525	.833
LINE III	0	0.0	00.00	0.0

GENERAL INFORMATION SHEET

CREDIT FOR STREET TIME

THIS INFORMATION SHEET HAS BEEN PREPARED BY ATTORNEYS WITH STATE COUNSEL FOR OFFENDERS. ANY SPECIFIC QUESTIONS ON THE FOLLOWING SHOULD BE ADDRESSED TO: STATE COUNSEL FOR OFFENDERS, VIA TRUCK MAIL OR REGULAR MAIL AT P.O. BOX 4005, HUNTSVILLE, TEXAS 77342-4005.

Section 508 of the Texas Government Code, grants some offenders who have had their parole or mandatory supervision revoked, credit for a portion of the time they were out of TDCJ custody on conditional release. This time is commonly referred to as “street time”. If awarded, the time is computed as flat time only, no good time is given. Not all revoked offenders will qualify for the award of credit for “street time”. It should be noted that “street time” credit does not apply to probation violators (including time served on deferred adjudication), those placed on bond, or State Jail sentences. *This law takes current and previously discharged offenses into consideration when determining “street time” eligibility. You may fall under “old law” for mandatory supervision eligibility, however, “street time” eligibility and mandatory supervision eligibility are two different issues.* The following criteria must be met in order to be eligible for consideration. If eligible, credit for your “street time” will be applied to the completion of your sentence and your recomputed dates will reflect this credit.

1. *Parole or mandatory supervision violator must be revoked on or after 9/1/2001.*
Individuals revoked prior to 9/1/2001 do not receive credit for the time that was spent out-of-custody on parole/mandatory supervision release. No bill has passed that applies this law retroactively for individuals that were revoked prior to 9/1/2001.

2. *Not presently serving or previously convicted of an ineligible offense as listed below.*
Section 508.149 lists those offenses (in addition to 3g or aggravated offenses) that are not eligible for “street time” credit.
 - A. MURDER (1ST & 2ND DEGREE), *Penal Code § 19.02*
 - B. CAPITAL MURDER, *Penal Code § 19.03*
 - C. AGGRAVATED KIDNAPPING (1ST & 2ND DEGREE) *Penal Code § 20.04*
 - D. *INDECENCY WITH A CHILD *Penal Code § 21.11*
 - E. *SEXUAL ASSAULT - RAPE, *Penal Code § 22.011*
 - F. *AGGRAVATED ASSAULT (1ST & 2ND DEGREE), *Penal Code § 22.02*
 - G. *AGGRAVATED SEXUAL ASSAULT (1ST DEGREE), *Penal Code § 22.021*
 - H. INJURY TO CHILD, ELDERLY OR DISABLED (1ST DEGREE), *Penal Code § 22.04*
 - I. ARSON (1ST DEGREE), *Penal Code § 28.02*
 - J. ROBBERY (2ND DEGREE), *Penal Code § 29.02*
 - K. AGGRAVATED ROBBERY (1ST DEGREE), *Penal Code § 29.03*
 - L. DRUG FREE ZONE § 481.134, *Health & Safety Code*
 - M. USE OF CHILD IN COMMISSION OF OFFENSE § 481.140, *Health & Safety Code*
 - N. SEXUAL PERFORMANCE BY A CHILD (1ST & 2ND DEGREE) *Penal Code § 43.25*
 - O. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN *Penal Code § 21.02*
 - P. CRIMINAL SOLICITATION (1ST DEGREE) *Penal Code § 15.03*
 - Q. COMPELLING PROSTITUTION *Penal Code § 43.05*
 - R. TRAFFICKING OF PERSONS (1ST & 2ND DEGREE) *Penal Code § 20A.02*
 - S. CONTINUOUS TRAFFICKING OF PERSONS *Penal Code § 20A.03*
 - T. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY (1ST DEGREE) *Penal Code § 71.02*
 - U. DIRECTING ACTIVITIES OF CRIMINAL STREET GANGS (1ST DEGREE) *Penal Code § 71.023*
 - V. AFFIRMATIVE FINDING OF DEADLY WEAPON, *Code of Crim. Proc. Art. 42.12 § 3g(a)(2).*
 - W. **BURGLARY (1ST DEGREE), *Penal Code § 30.02*

** If burglary is committed prior to 9/1/1994, 1st degree is eligible if no finding under subsection d(2) or d(3).
If burglary is committed on or after 9/1/1994, 1st degree is eligible if enhanced

3. *You must have served over ½ of the time that you still owed when you were released BEFORE a summons or warrant for revocation (aka-blue warrant) was issued.*

This is called meeting mid-point. The date the blue warrant is issued determines eligibility for mid-point, not the date you were arrested or revoked. When the blue warrant is issued before you served over ½ the time you still owed on your sentence when you were released, you are not eligible to receive credit for your “street time”. This does not mean serving half your total sentence length. For example, if you had a ten-year sentence and you were released after serving two years flat time, you still owed eight years. Half of the eight years you still owed is four years. Therefore if a blue warrant is issued at any time before the four years has passed, you are not eligible for your “street time”, even if you were not actually arrested until five years after your release. (Offenders with a life sentence will not meet the eligibility requirements because it is mathematically impossible to determine a mid-point date. Convictions with a life sentence do not have a specific number of years assessed; therefore, a mathematical equation cannot be conducted.)

YOUR MID-POINT DATE: _____ BLUE WARRANT ISSUED: _____

*Section 508.149 of the Texas Government Code contains a list of offenses rendering offenders ineligible for mandatory supervision. When read literally, the list of disqualifying offenses does not include former statutes such as sexual abuse of a child, rape of a child, rape, or aggravated rape. However, the Texas Court of Appeals has concluded that Section 508.149 *includes* the predecessors to the enumerated offenses that currently make an inmate ineligible for mandatory supervision release. *Ex Parte Ervin*, 187 S.W.3d 386 (Tex. Crim. App. 2005). Therefore, convictions under the old Sexual Offenses Chapter of the Texas Penal Code that were based upon the same conduct outlawed by the current sexual offenses listed in 508.149 of the Government Code can be used as a disqualifier for street time restoration.

***Ex Parte Mabry* **only** applies to offenders currently serving or those who had been previously convicted of 1st degree Burglary of a Habitation committed prior to 09-01-94. It does not apply to all offenders, nor does it apply in all situations. If an offender had been denied his street time credits due to a conviction of 1st degree Burglary of a Habitation, then that offender may now be entitled to that street time. However, they still have to qualify under **all** other criteria (such as serving over half of the time remaining on parole before being revoked).

NOTE: In your specific case you do not meet the highlighted criteria and therefore are not eligible to receive credit for your “street time”. Therefore you are required to serve the remainder of your sentence without credit for any time that you served on the streets while on parole or mandatory supervision. The projected release and maximum expiration dates (short-way and long-way) are recomputed when you are reprocessed into the prison system. Not being eligible to receive credit for your “street time” does not mean the sentence has been illegally extended (or illegally stopped and started again). Also, it is not considered double jeopardy (even if you are ineligible due to a previous crime).

BURGLARY OFFENSE COMMITTED BEFORE 9-1-87	MS ELIG	HB1649	HB1433
Burglary of a Building, any degree	√	√	√
Burglary, 1st degree	√	√	√
Burglary Habitation, 1st degree	√	√	√
Burglary W/I commit Theft, 1st degree	√	√	√
Burglary W/I commit Assault or Sexual Assault, 1st degree	√	X	X
Burglary w/ Bodily Injury or Serious BI, 1st degree	√	X	X
Burglary w/ Explosives, 1st degree	√	X	X
Burglary w/ D2 or D3 finding	√	X	X
Burglary (any type) w/affirmative finding of a Deadly Weapon, any degree	√	X	X

BURGLARY OFFENSE COMMITTED BETWEEN 09-01-87 and 08-31-94	MS ELIG	HB1649	HB1433
Burglary of a Building, any degree	√	√	√
Burglary, 1st degree	√	√	√
Burglary Habitation, 1st degree	√	√	√
Burglary W/I commit Theft, 1st degree	√	√	√
Burglary W/I commit Assault or Sexual Assault, 1st degree	X	X	X
Burglary Commits or Attempts to Commit Assault or Sexual Assault, 1st degree	X	X	X
Burglary w/ Explosives, 1st degree	X	X	X
Burglary w/ D2 or D3 finding	X	X	X
Burglary (any type) w/affirmative finding of a Deadly Weapon, any degree	X	X	X

BURGLARY OFFENSE COMMITTED ON OR AFTER 09-01-94	MS ELIG	HB1649	HB1433
Burglary of a Building, any or no degree	√	√	√
Burglary, 1st degree, enhanced	√	√	√
Burglary, 1st degree, not enhanced	X	X	X
Burglary, no degree (pending clarification)	X	X	X
Burglary Habitation, 1st degree, enhanced	√	√	√
Burglary Habitation, 1st degree, not enhanced	X	X	X
Burglary Habitation, no degree (pending clarification)	X	X	X
Burglary W/I commit Theft, 1st degree, enhanced	√	√	√
Burglary W/I commit Theft, 1st degree, not enhanced	X	X	X
Burglary W/I commit Theft, no degree	√	√	√
Burglary W/I commit Assault or Sexual Assault, 1st degree, enhanced or not enhanced	X	X	X
Burglary W/I commit Bodily Injury or Serious BI, 1st degree, enhanced or not enhanced	X	X	X
Burglary w/Explosives, 1st degree, enhanced or not Enhanced	X	X	X
Burglary (any type) w/affirmative finding of a Deadly Weapon, any degree	X	X	X

“MS ELIG” refers to Mandatory Supervision Eligibility pursuant to § 508.149(a) of the Government Code; “HB 1649”

refers to eligibility for street time credit. “HB 1433” refers to discretionary mandatory supervision eligibility.

“√” means eligible and an “X” means not eligible for consideration

Parole in Texas Parole & Mandatory Supervision Eligibility Chart

(Revised 03/18/16)

Offense Date	Offense Legislature	Parole Eligibility
Prior to 01-01-66	55th Legislature All Offenses*	Calendar Time = 1/3, including any bonus & blood donations* Maximum = 15 yrs. * (Art. 42.12 was amended 01-01-66 to allow <u>good time</u> and <u>1/4 time</u> for <u>all persons confined in TDC.</u>)
01-01-66 thru 08-28-67	59th Legislature All Offenses*	Calendar Time + Good Time = 1/4, including any bonus & blood donations Maximum = 15 yrs.
08-29-67 thru 08-28-77	60th – 64th Legislatures All Offenses* * TDCJ Data Services calculates eligibility dates on all offenses prior to 08-28-77 utilizing calendar time + good time = 1/3, regardless of the law in effect when the offense was committed. This is apparently due to court rulings during that time period.	Calendar Time + Good Time = 1/3, including any bonus & blood donations Maximum = 20 yrs. Offender discharges sentence when calendar time + good time = total sentence. Sentence is effectively reduced by the amount of good time earned.
08-29-77 thru 08-31-87	65th – 69th Legislatures Art. 42.12 Sec. 3f (08-29-77 thru 08-31-83) Art. 42.12 Sec. 3g (09-01-83 thru 08-31-87) Capital Murder Agg. Kidnapping Agg. Robbery Agg. Rape Agg. Sexual Abuse (08-31-83: <i>Agg. Rape and Agg. Sexual Abuse combined into Aggravated Sexual Assault</i>) Offenses with Affirmative Finding of Deadly Weapon	Calendar Time = 1/3 Minimum of 2 yrs. Maximum of 20 yrs.
	All other offenses	Calendar Time + Good Time = 1/3, including A, B, or C credits and bonus Maximum of 20 yrs. All offenses eligible for Mandatory Supervision.
09-01-87 thru 08-31-89	70th Legislature 3g Offenses: Capital Murder Agg. Kidnapping Agg. Sexual Assault Agg. Robbery Offenses with Affirmative Finding of Deadly Weapon	Calendar Time = 1/4 Minimum of 2 yrs. Maximum of 15 yrs.
	All other offenses	Calendar Time + Good Time = 1/4, including work credits and bonus Maximum of 15 yrs. See MS Ineligible List #1 for offenses NOT eligible for Mandatory Supervision

09-01-89 thru 08-31-93	71st-72nd Legislatures Capital Murder (Capital Felony) - Life Sentence 1) Murders peace officer or fireman on official duty, 2) Murders while committing a kidnapping, burglary, robbery, aggravated sexual assault, or arson, 3) Murders for remuneration, 4) Murders while escaping from a penal institution, 5) Murders an employee of a penal institution, 6) Murders more than one person during the same criminal transaction, or during different criminal transactions but the murders are committed pursuant to the same scheme.	Calendar Time = 1/4 Minimum of 2 yrs. Maximum of 15 yrs. Calendar Time = 35 yrs effective 09-01-91.
	3g Offenses: Capital Murder Agg. Kidnapping Agg. Sexual Assault Agg. Robbery Offenses with Affirmative Finding of Deadly Weapon	Calendar Time = 1/4 Minimum of 2 yrs. Maximum of 15 yrs.
	<u>Special Needs Parole</u> (Effective 12-1-91)	See Special Needs Parole note below
	All other offenses	Calendar Time + Good Time = 1/4, including work credits and bonus Maximum of 15 yrs. See MS Ineligible List #1 for offenses NOT eligible for Mandatory Supervision
09-01-93 thru 08-28-95	73rd Legislature Capital Murder (Capital Felony) - Life Sentence See Capital Murder List for specifics	Calendar Time = 40 yrs. 2/3 Board vote required
	3g Offenses: Agg. Kidnapping Agg. Robbery Agg. Sexual Assault Capital Murder Offenses with Affirmative Finding of Deadly Weapon Indecency With a Child (Sexual Conduct) Murder	Calendar Time = 1/2 Minimum of 2 yrs. Maximum of 30 yrs.
	<u>Special Needs Parole</u>	See Special Needs Parole note below
	All other offenses	Calendar Time + Good Time = 1/4, including work credits and bonus Maximum of 15 yrs. See MS Ineligible List #2 for offenses NOT eligible for Mandatory Supervision
	Drug-Free Zones: Institution of higher learning or a play-ground (1000 ft.), youth center, public pool or video arcade (300 ft.)	Calendar Time = 5 yrs. or maximum term, whichever is less
	State Jail Felonies (confinement is to a state jail for any term of not more than two years or less than 180 days.)	Parole Eligibility is NOT applicable.
08-29-95 thru 08-31-97	74th Legislature Capital Murder (Capital Felony) - Life Sentence See Capital Murder List below for specifics	Calendar Time = 40 yrs. (Full Board vote + written report from Texas Department of Criminal Justice)
08-29-95 thru 08-31-97(cont.)	Offender is given a Life Sentence for one of the following listed offenses: -Agg Kidnapping (with intent to violate or abuse the victim sexually)-20.04(a)(4). -Aggravated Sexual Assault-22.021 -Burglary of Habitation with Intent to Commit any felony other than felony theft. AND has two prior convictions, one of which is an offense of: -Sexual Performance by a Child-43.25 -Poss or Promotion of Child Pornography-43.26	Calendar Time = 35 yrs.

Condition requiring long term care

Elderly

Physically Handicapped

Terminally Ill

Mentally Retarded

Mentally Ill

3g offenses are eligible

Sentence of death/Life without parole excluded

Sex Offenders are eligible if:

- Persistent vegetative state

- Organic brain syndrome, or significant cant or total mobility impairment

- Can be earlier than parole eligibility date

- Based on medical evaluation, offender is no longer a threat to society.

MS Ineligible List #1

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder

Murder, 1st Degree

Agg. Kidnapping

Agg. Robbery

Agg. Sexual Assault

Robbery, 2nd Degree

Sexual Assault, 2nd degree

Arson, 1st Degree

Agg. Assault, 2nd & 3rd Degree

Injury to Child or Elderly, 1st Degree

Burglary Punishable under Subsection d(2) or d(3)

Offenses with an Affirmative Finding of a Deadly Weapon

Deadly Assault on Law or Corrections Officer, Court Participant; Probation Personnel; Member or Employees of the BPP; Employees of TYC

MS Ineligible List # 2

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder

Murder, 1st Degree

Agg. Kidnapping

Agg. Robbery

Agg. Sexual Assault

Robbery, 2nd Degree

Sexual Assault, 2nd degree

Arson, 1st Degree

Agg. Assault, 1st & 2nd Degree

Injury to Child or Elderly, 1st Degree

Burglary Punishable under Subsection d(2) or d(3)

Offenses with an Affirmative Finding of a Deadly Weapon

A Felony Increased Under Health and Safety Code 481.134 (Drug-Free Zones)

MS Ineligible List # 3

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder

Injury to Disabled Individual

Agg. Kidnapping

Agg. Robbery

Agg. Sexual Assault

Robbery, 2nd Degree

Sexual Assault, 2nd degree

Arson, 1st Degree

Agg. Assault, 1st & 2nd Degree

Injury to Child or Elderly, 1st Degree

Injury to a Disabled Individual, 1st degree if committed on or after 09/01/1995

Murder, 1st Degree (2nd degree if committed on or after 05/23/1997)

Indecency w/Child (Sexual Contact) committed on or after 05/23/1997

Burglary, 1st (degree-with intent to commit felony other than Theft)

Offenses with an Affirmative Finding of a Deadly Weapon

Any Felony increased under Health and Safety Code 481.134 (Drug-Free Zones)

Any offense committed on or after 09-01-1996 with a prior conviction currently listed as MS ineligible

MS Ineligible List # 4

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder

Agg. Kidnapping

Agg. Sexual Assault

Sexual Assault, 2nd degree

Agg. Assault, 1st & 2nd Degree

Murder, 1st or 2nd Degree

Burglary, 1st (degree-with intent to commit felony other than Theft)

Offenses with an Affirmative Finding of a Deadly Weapon

Any Felony increased under Health and Safety Code 481.134 (Drug-Free Zones)

Agg. Robbery

Robbery, 2nd Degree

Arson, 1st Degree

Injury to Child or Elderly/Disabled Individual, 1st Degree

Indecency w/Child (Sexual Contact)

Any Felony committed on or after 06-14-2001 increased under Health and Safety Code 481.140 (Use of Child in Commission of Offense)
Any offense with a prior conviction currently listed as MS ineligible

MS Ineligible List # 5

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder
Agg. Kidnapping
Agg. Sexual Assault
Sexual Assault, 2nd degree
Agg. Assault, 1st & 2nd Degree
Murder, 1st or 2nd Degree
Burglary, 1st (degree-with intent to commit felony other than Theft)
Sexual Performance by a Child
Offenses with an Affirmative Finding of a Deadly Weapon
Any Felony increased under Health and Safety Code 481.134 (Drug-Free Zones)
Any Felony increased under Health and Safety Code 481.140 (Use of Child in Commission of Offense)
Any offense with a prior conviction currently listed as MS ineligible

Agg. Robbery
Robbery, 2nd Degree
Arson, 1st Degree
Injury to Child u-14 or Elderly/Disabled Individual, 1st Degree
Indecency w/Child (Sexual Contact)
Continuous sexual abuse of a young child or children

MS Ineligible List # 6

The offenses listed below are NOT eligible for Mandatory Supervision:

Capital Murder
Agg. Robbery
Agg. Sexual Assault
Arson, 1st Degree
Agg. Assault, 1st & 2nd Degree
Murder, 1st or 2nd Degree
Burglary, 1st (degree-with intent to commit felony other than Theft)
Sexual Performance by a Child
Offenses with an Affirmative Finding of a Deadly Weapon
Any Felony increased under Health and Safety Code 481.134 (Drug-Free Zones)
Any Felony increased under Health and Safety Code 481.140 (Use of Child in Commission of Offense)
Criminal Solicitation, 1st degree
Compelling Prostitution
Trafficking of Persons
Engaging in Organized Criminal Activity, 1st degree
Directing the Activities of Criminal Street Gangs, 1st degree
Any offense with a prior conviction currently listed as MS ineligible

Agg. Kidnapping
Robbery, 2nd Degree
Sexual Assault, 2nd degree
Injury to Child u-14 or Elderly/Disabled Individual, 1st Degree
Indecency w/Child (Sexual Contact)
Continuous sexual abuse of a young child or children
Continuous Trafficking of Persons

Capital Murder List

- 1) Murders a peace officer or fireman on official duty,
- 2) Murders a person in the course of committing a kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction, or retaliation,
- 3) Murders for remuneration,
- 4) Murders while escaping or attempting to escape from a penal institution,
- 5) Murders an employee of a penal institution,
- 6) Murders with intent to establish or participate in an alliance of individuals,
- 7) A person convicted of murder who murders while incarcerated,
- 8) Murders while serving a sentence of Life or 99 years for Aggravated Kidnapping, Aggravated Sexual Assault, or Aggravated Robbery,
- 9) Murders more than one person during the same criminal transaction, or during different criminal transactions but the murders are committed pursuant to the same scheme,
- 10) Murders an individual under six years of age.
- 11) Murders in retaliation for/on account of service/status as judge or justice of courts (effective 09/01/2005)

GENERAL INFORMATION SHEET

DISCRETIONARY MANDATORY SUPERVISION (DMS) HOUSE BILL 1433 CASES

THIS INFORMATION SHEET HAS BEEN PREPARED BY ATTORNEYS WITH STATE COUNSEL FOR OFFENDERS. ANY SPECIFIC QUESTIONS ON THE FOLLOWING SHOULD BE ADDRESSED TO: STATE COUNSEL FOR OFFENDERS, VIA TRUCK MAIL OR REGULAR MAIL AT P. O. BOX 4005, HUNTSVILLE, TEXAS 77342.

Certain offenses committed on or after 9/1/1996 are eligible for discretionary release to mandatory supervision when the total time credits (flat + good) equals the sentence length, in other words when 100% is accrued. Discretionary means that even though you are eligible for release to mandatory supervision you must be approved for release by the Board of Pardons and Paroles just like you do for parole. This change is due to House Bill 1433 (now codified in Government Code §508.149). There is a possibility that the TDCJ computer system may show a mandatory supervision release date and later that date may be changed or removed. The date may change due to a change in classification or loss of good time due to a disciplinary. If you committed your offense after 9/1/1996 the date may be removed because the Parole Board has the right to deny release to mandatory supervision. Their vote should occur prior to the mandatory supervision date TDCJ has computed for a specific sentence.

This bill also states if you were previously convicted of one of the offenses described below, then you will never again be eligible for mandatory supervision even if your current offense, by itself, would be considered eligible. For example, if you discharged an aggravated robbery offense in 1979 and sometime after 9/1/1996 you received a DWI, then you will not be eligible for mandatory supervision due to your prior conviction.

- A. Offenses with Affirmative Finding of Deadly Weapon (section 3g(a)(2), art. 42.12, CCP)
- B. *Murder, first or second degree, section 19.02 penal code
- C. Capital Murder section 19.03 penal code
- D. Aggravated Kidnapping, first or second degree, section 20.04 penal code
- E. *Indecency with a Child, second or third degree, section 21.11 penal code
- F. **Sexual Assault, second degree, section 22.011 penal code
- G. Aggravated Assault, first or second degree, section 22.02 penal code
- H. **Aggravated Sexual Assault, first degree, section 22.021 penal code
- I. Injury to a Child, Elderly Individual, or Disabled Individual, first degree, section 22.04 penal code
- J. Arson, first degree, section 28.02 penal code
- K. Robbery, second degree, section 29.02 penal code
- L. Aggravated Robbery, first degree, section 29.03 penal code
- M. ***Burglary, first degree, section 30.02 penal code
- N. Increase in punishment under Health and Safety Code (drug-free zones) section 481.134

The following offenses were added to the ineligible list effective September 1, 2013. These offenses cannot be used as disqualifiers on otherwise eligible offenses that were committed between 9/1/1996 and 8/31/2013:

- O. Sexual Performance by a Child, section 43.25, penal code
- P. Continuous Sexual Abuse of a Young Child(ren), section 21.02, penal code
- Q. Criminal Solicitation, first degree, section 15.03, penal code
- R. Compelling Prostitution, section 43.05, penal code
- S. Trafficking of Persons, section 20A.02, penal code
- T. Continuous Trafficking of Persons, section 20A.03, penal code
- U. Engaging in Organized Criminal Activity, 1st degree, section 71.02, penal code or;
Directing Activities of Criminal Street Gangs, 1st degree, section 71.023, penal code

If you are ineligible for or denied mandatory supervision, your short-way discharge date (also referred to as projected release date or minimum expiration date) will be the same as your maximum discharge date. In this case your records may show over 100% (flat + good) on a sentence, but this does not mean TDCJ is required to release you.

It should be noted that most of the offenses that are ineligible are the so-called “Aggravated” crimes. However, there are many crimes that are not called “Aggravated” (or considered a 3g offense) that are ineligible for mandatory supervision. For example, Robbery falls into this category. **Just because you are not eligible for mandatory supervision does not mean you are doing “aggravated” time.**

These are the procedures used by TDCJ for HB1433 cases and there is nothing we can do to change this procedure. Also, you are required to serve the time sentenced on each conviction under the rules that govern each individual conviction. One case does not “eat-up” another case. The release date criteria on each conviction may vary. It is normal for different convictions to have different release dates. **Physical release from TDCJ custody will not occur until approval for release on every conviction currently being served in TDCJ custody has been obtained.**

SPECIAL ISSUES

* An offender who commits a mandatory supervision eligible offense between the dates of 9/1/1996 and 5/22/1997 with a prior offense of Murder, 2nd degree or Indecency with a Child, 2nd degree, (*and has no other disqualifiers*), must be calculated as eligible for mandatory supervision. Prior to 5/23/1997, these two offenses were not included in the list of offenses excluded from mandatory supervision eligibility.

** Section 508.149 of the Texas Government Code contains a list of offenses rendering offenders ineligible for mandatory supervision. When read literally, the list of disqualifying offenses does not include former statutes such as sexual abuse of a child, rape of a child, rape, or aggravated rape. However, the Texas Court of Criminal Appeals has concluded that Section 508.149 *includes* the predecessors to the enumerated offenses that currently make an inmate ineligible for mandatory supervision release. *Ex Parte Ervin*, 187 S.W.3d 386 (Tex. Crim. App. 2005). Therefore, convictions under the old Sexual Offenses Chapter of the Texas Penal Code that were based on the same conduct outlawed by the current sexual offenses listed in Section 508.149 of the Government Code can be used as a disqualifier for mandatory supervision eligibility and street time restoration.

*** If the burglary is committed prior to 9/1/1994, 1st degree is eligible and cannot be used as a disqualifier, if there is no finding under subsection d(2) or d(3). If the burglary is committed on or after 9/1/1994, 1st degree is eligible and cannot be used as a disqualifier, if it is an enhanced offense.

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SCFO



Social Security

What Prisoners Need To Know

www.socialsecurity.gov

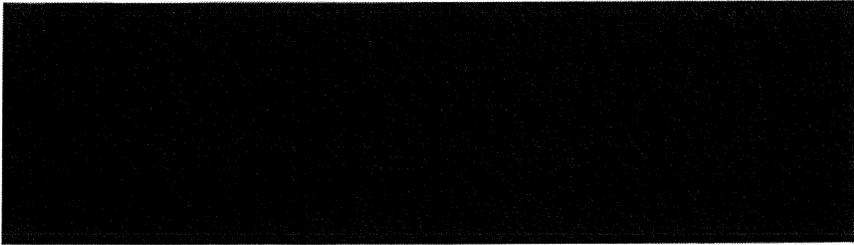
What Prisoners Need To Know

Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) payments generally aren't payable for months that you're confined to a jail, prison, or certain other public institutions for committing a crime. You're not automatically eligible for Social Security or SSI payments after your release.

Who can get Social Security benefits?

Social Security pays retirement benefits to people who are age 62 or older. Generally, you must have worked and paid Social Security taxes for 10 years to be eligible.

We pay disability benefits to insured individuals who are unable to work because of a serious medical condition that is expected to last at least a year or result in death. A person who is a recent parolee, or who is unemployed, doesn't qualify for disability payments.



Who can get SSI payments?

We pay SSI to people who are age 65 or older, or who are blind or disabled, and whose income and resources fall below certain limits.

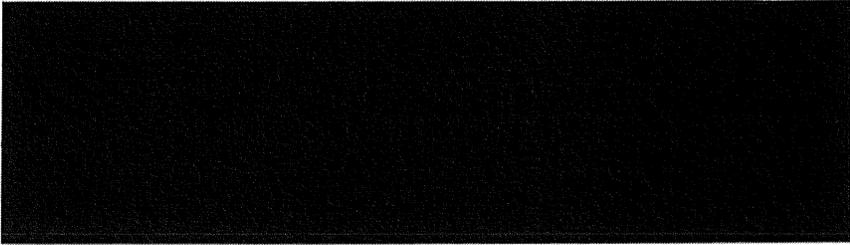
No benefits are payable for any month in which you are in jail, prison, or certain other public institutions.

What happens to my benefits when I am in prison?

If you receive Social Security, your benefits will be suspended if you're convicted of a criminal offense and sent to jail or prison for more than 30 continuous days. Your benefits can be reinstated starting with the month following the month of your release.

Although you can't receive monthly Social Security benefits while you're incarcerated, benefits to your spouse or children will continue as long as they remain eligible.

If you're receiving SSI, your payments are suspended while you're in prison. Your payments can be reinstated in the month you're released. However, if your confinement lasts for 12 consecutive months or longer, your eligibility for SSI benefits will terminate and you must file a new application for benefits.

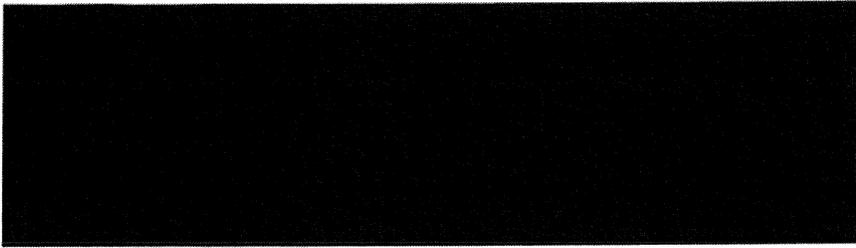


Can I get my benefits reinstated after I'm released from prison?

If we suspend your disability or SSI benefits because you were in prison, you can request for Social Security to reinstate your benefits. You'll need to contact Social Security and provide a copy of your release documents before we can act on your request.

Example: George received monthly **Social Security disability benefits** before he was convicted of a crime and sent to prison on May 15, 2012. His benefits were suspended effective May 2012. On October 10, 2014, George was released from prison. His benefits were reinstated effective November 2014. Since Social Security benefits are paid in the month following the month for which they are due, George will receive his November benefit in December 2014.

Example: Sam received **SSI benefits** before he was confined to prison on June 7, 2014. He was released on September 7, 2014 and his SSI benefits were reinstated as of September 7, 2014. Sam will be eligible for a partial payment for September and full benefits for October.



If you weren't receiving either Social Security disability or SSI benefits before you went to prison, or your SSI benefits were terminated, you'll need to file a new application for benefits if you think you may be eligible. You should contact Social Security for more information about filing a claim for benefits. You'll need to provide proof of your release from prison, in addition to a new application and other documents.

***NOTE:** We can't start your benefits until your release. We must have your official release documents from the jail or prison where you were confined. Please remember to bring your release forms when you visit your local Social Security office. This will help us get your benefits started more quickly.*

www.socialsecurity.gov

What about my Medicare or Medicaid coverage?

Your eligibility for Medicare

Part A (hospital insurance) continues uninterrupted while you're in prison. But, **Medicare Part B** (medical insurance) will terminate if you don't pay your monthly premiums while you're in prison. To start Medicare Part B, you'll need to file an application with us during a general enrollment period, which is January through March of each year. If you file during this enrollment period, your Part B eligibility will begin on July 1 of that year.

If your Medicaid eligibility terminated while you were in prison, you'll need to contact your local social services office to apply for Medicaid coverage. We can provide a referral form for you to take to the social services office.

How do I file an application if I am in prison?

After you know your release date, notify someone at your facility that you want to start your Social Security or SSI benefits. **If your institution has a prerelease agreement with the local Social Security office**, it will notify us if you're likely to meet the requirements for SSI or disability benefits. We'll get an application from you several months before your anticipated release. That way, we can begin processing your application and your benefits can start as soon as possible after your release.

If you're filing for benefits based on disability, we'll gather medical evidence from your doctors to help us decide whether you still meet Social Security's definition of disability.

Family members or a social worker can help you by contacting Social Security to let us know of your upcoming release. A family member also may be willing to serve as your representative payee if your medical condition prevents you from handling your own finances.

If there is no prerelease agreement, when you know your anticipated release date, contact Social Security to apply for benefits if you think you may be eligible. You can call us toll-free at **1-800-772-1213** and tell the representative that you're scheduled to be released from a correctional facility and want to ask about receiving benefits. Please have your Social Security number handy when you contact us. We'll set up an appointment with your local Social Security office to take your application after your release.

What happens if I have a financial emergency and can't pay my bills?

If the prerelease procedure is used and you're qualified for benefits, we can usually get your benefits started soon after your release. If we're unable to do so, and you're facing a financial emergency, we can issue a payment immediately if we determine that

- You're eligible for either Social Security disability or SSI benefits;
- You're already due a payment; and
- Your situation qualifies as a financial emergency under our rules.

Contacting Social Security

For more information, call us toll-free at **1-800-772-1213** (for the deaf or hard of hearing, call our TTY number, **1-800-325-0778**). We can answer case-specific questions from 7 a.m. to 7 p.m., Monday through Friday. Generally, you'll have a shorter wait time if you call after Tuesday. We treat all calls confidentially. We also want to make sure you receive accurate and courteous service. That is why a second Social Security representative monitors some telephone calls.

We can provide general information by automated phone service 24 hours a day. You can also find copies of our publications, and answers to frequently asked questions by visiting our website at ***www.socialsecurity.gov***.

SCFO



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Seguro Social

Benefits America!

Lo que las personas
encarceladas deben saber

www.segurosocial.gov

Lo que las personas encarceladas deben saber sobre el Seguro Social

Por lo general, durante los meses que esté en la cárcel, prisión o ciertas instituciones públicas, por haber cometido un crimen, no tiene derecho a beneficios de Seguro Social ni de Seguridad de Ingreso Suplementario (SSI, siglas en inglés). Tampoco tiene derecho a beneficios de Seguro Social o de SSI automáticamente cuando sea puesto en libertad.

¿Quién puede recibir beneficios de Seguro Social?

Los beneficios de Seguro Social por incapacidad se pueden pagar a personas que trabajaron recientemente y pagaron impuestos de Seguro Social, y que ya no pueden trabajar debido a una enfermedad grave que se espera que dure por lo menos un año o que le cause la muerte. El hecho de que una persona haya sido puesta en libertad condicional o se encuentre desempleada no se considera una incapacidad.

Los beneficios de Seguro Social por jubilación se pueden pagar a personas mayores de 62 años de edad. Por lo general, para tener derecho a beneficios por jubilación, debió trabajar y pagar impuestos de Seguro Social por 10 años.

¿Quién puede recibir beneficios de SSI?

Se puede pagar SSI a personas mayores de 65 años, o que son ciegas o están incapacitadas y que tienen ingresos y recursos que no sobrepasan ciertos límites. No puede recibir beneficios durante los meses en que esté confinado en una cárcel, prisión o ciertas instituciones públicas.

¿Qué sucede con mis beneficios mientras estoy en la cárcel?

Si recibía beneficios de Seguro Social, éstos serán suspendidos si tiene que ingresar a la cárcel o prisión por más de 30 días consecutivos porque fue condenado de alguna ofensa criminal. Sus beneficios pueden ser restituidos a partir del mes después del mes en que haya sido puesto en libertad.

Aunque no puede recibir beneficios de Seguro Social mientras esté confinado, su cónyuge o niños bajo su registro de ganancias pueden recibirlos, siempre y cuando continúen teniendo derecho a recibirlos.

Si recibe beneficios de SSI, éstos serán suspendidos mientras esté en la cárcel o prisión. Sus pagos pueden ser restituidos el mes en que sea puesto en libertad. Sin embargo, si estará confinado por más de 12 meses consecutivos, cesará su derecho a recibir beneficios de SSI y tendrá que presentar una nueva solicitud para recibir beneficios.

¿Se pueden restituir mis beneficios cuando esté listo para ser puesto en libertad?

Si sus beneficios de Seguro Social o de SSI fueron suspendidos porque fue encarcelado, puede pedir que sean restablecidos. Debe comunicarse con el Seguro Social y proveer una copia de los documentos que indican que ha sido puesto en libertad antes de que podamos proceder con su petición.

Ejemplo: José Juan recibía **beneficios de Seguro Social por incapacidad**. El 15 de mayo del 2007 fue condenado y confinado en prisión por lo cual sus beneficios fueron suspendidos comenzando en mayo del 2007. El 10 de octubre del 2009, José Juan fue puesto en libertad y sus beneficios fueron restituidos a partir de noviembre del 2009. Como los beneficios de Seguro Social se pagan el mes después del mes en que se deben, José Juan recibirá el primer cheque en diciembre del 2009.

Ejemplo: Luis recibía **beneficios de SSI por incapacidad**. El 7 de junio del 2009 fue confinado en prisión. El 7 de septiembre del 2009, Luis fue puesto en libertad. Por lo tanto sus beneficios pueden ser restituidos a partir del 7 de septiembre del 2009. A Luis se le hará un pago parcial de los beneficios por el mes de septiembre y el pago completo de los beneficios en el mes de octubre.

www.segurosocial.gov

Si no recibía beneficios de Seguro Social ni de SSI antes de su encarcelamiento o si cesaron sus beneficios de SSI, tendrá que solicitar beneficios de nuevo si piensa que tiene derecho a recibirlos. Debe comunicarse con el Seguro Social para informarse mejor sobre cómo presentar una solicitud para recibir beneficios. Además de una nueva solicitud y otros documentos necesita prueba concreta de que ha sido puesto en libertad.

***NOTA ACLARATORIA:** No podemos restituir sus beneficios hasta que haya sido puesto en libertad. Necesitamos prueba oficial de parte de la prisión o cárcel donde se encontraba confinado, de que ha sido puesto en libertad. Por favor recuerde que es importante que traiga consigo los formularios que indican que ha sido puesto en libertad a la oficina del Seguro Social. Esto nos ayudará a restituir sus beneficios con más rapidez.*

¿Qué me pueden decir de la cobertura de Medicare o Medicaid?

Su cobertura de la Parte A de Medicare (seguro de hospital) no se afecta durante su encarcelación. Pero, la **Parte B de Medicare** (seguro médico) cesa si no paga su prima mensual mientras esté en prisión. Para restituir la Parte B de Medicare es necesario que presente una solicitud durante el periodo general de inscripción que ocurre entre los meses de enero hasta marzo de cada año. Si presenta la solicitud durante

este periodo de inscripción, su cobertura de la Parte B comenzará el 1º de julio del año en que se inscriba.

Si su derecho a Medicaid cesó mientras se encontraba confinado, tendrá que comunicarse con la oficina local de servicios sociales para solicitar la cobertura de Medicaid. Podemos proveerle una referencia que puede presentar a la oficina de servicios sociales.

¿Cómo puedo presentar una solicitud para recibir beneficios si estoy encarcelado?

Una vez sepa la fecha de cuándo lo podrán en libertad, hágale saber a alguien en la institución donde se encuentre que quiere solicitar beneficios de Seguro Social o SSI. **Si su institución tiene un arreglo de salida prevista con la oficina del Seguro Social**, nos notificarán si es probable que cumpla con todos los requisitos para recibir beneficios de SSI o de Seguro Social. Entonces podremos aceptar una solicitud para recibir beneficios varios meses antes de su salida prevista. De esta forma, podemos comenzar a procesar la solicitud para que sus beneficios puedan empezar lo más pronto posible después de que haya sido puesto en libertad.

Si está solicitando beneficios basados en una incapacidad, recopilaremos la evidencia médica de parte de sus médicos para que nos ayude a decidir si está incapacitado de acuerdo con nuestras reglas.

Sus familiares o el trabajador social lo pueden ayudar comunicándose con el Seguro Social para informarnos que próximamente será puesto en libertad.

Posiblemente, uno de sus familiares pueda servir como su representante de beneficiario, si es que su incapacidad le impide administrar sus finanzas.

Si no existe un arreglo de salida prevista, debe comunicarse con el Seguro Social tan pronto sepa la fecha en que será puesto en libertad para solicitar beneficios, si piensa que podría tener derecho a recibirlos. Llámenos gratis al **1-800-772-1213** e informe a nuestro agente que tiene una fecha prevista cuando será puesto en libertad y que quisiera informarse mejor acerca de las posibilidades de recibir beneficios. Cuando nos llame, por favor tenga su número de Seguro Social consigo. Programaremos una cita con su oficina local del Seguro Social para llenar una solicitud, después que sea puesto en libertad.

¿Qué sucedería si tengo algún problema económico y no puedo pagar mis facturas?

Si se invoca el procedimiento de libertad prevista y se encuentra que tiene derecho a recibir beneficios, por lo general podemos comenzar a pagarle beneficios poco después que sea puesto en libertad. Si no podemos hacerlo y tiene problemas económicos, podemos proporcionarle un pago inmediato si determinamos que:

- Tiene derecho a recibir beneficios de Seguro Social o SSI;
- Ya se le debe un pago; y
- Su situación es catalogada como una emergencia económica de acuerdo con nuestras reglas.

Cómo comunicarse con el Seguro Social

Para informarse mejor y obtener copias de nuestras publicaciones, visite nuestro sitio por Internet de ***www.segurosocial.gov***. También puede llamar a nuestro número gratis **1-800-772-1213**. Si desea el servicio en español, oprima el 7 y espere a que le atienda un agente. (Las personas sordas o con problemas de audición pueden llamar a nuestro número TTY **1-800-325-0778**). Tratamos todas nuestras llamadas confidencialmente. Podemos contestar preguntas específicas de lunes a viernes desde las 7 a.m. hasta las 7 p.m. Ofrecemos servicios de intérprete gratis tanto por teléfono como en nuestras oficinas. Además, ofrecemos información telefónica automatizada las 24 horas del día.

Queremos asegurarnos que usted reciba un servicio cortés y correcto. Por eso es posible que un segundo agente del Seguro Social escuche algunas llamadas.



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INSTRUCTION AND INFORMATION SHEET FOR SF 180, REQUEST PERTAINING TO MILITARY RECORDS

1. General Information. The Standard Form 180, Request Pertaining to Military Records (SF180) is used to request information from military records. Certain identifying information is necessary to determine the location of an individual's record of military service. Please try to answer each item on the SF 180. If you do not have and cannot obtain the information for an item, show "NA," meaning the information is "not available". Include as much of the requested information as you can. Incomplete information may delay response time. To determine where to mail this request see Page 2 of the SF180 for record locations and facility addresses.

Online requests may be submitted to the National Personnel Records Center (NPRC) by a veteran or deceased veteran's next-of-kin using eVetRecs at <http://www.archives.gov/veterans/military-service-records/>.

2. Personnel Records/Military Human Resource Records/Official Military Personnel File (OMPF) and Medical Records/Service Treatment Records (STR). Personnel records of military members who were discharged, retired, or died in service **LESS THAN 62 YEARS AGO** and medical records are in the legal custody of the military service department and are administered in accordance with rules issued by the Department of Defense and the Department of Homeland Security (DHS, Coast Guard). STRs of persons on active duty are generally kept at the local servicing clinic. After the last day of active duty, STRs should be requested from the appropriate address on page 2 of the SF 180. (See item 3, Archival Records, if the military member was discharged, retired or died in service more than 62 years ago.)

a. **Release of information:** Release of information is subject to restrictions imposed by the military services consistent with Department of Defense regulations, the provisions of the Freedom of Information Act (FOIA) and the Privacy Act of 1974. The service member (either past or present) or the member's legal guardian has access to almost any information contained in that member's own record. The authorization signature of the service member or the member's legal guardian is needed in Section III of the SF180. Others requesting information from military personnel records and/or STRs must have the release authorization in Section III of the SF 180 signed by the member or legal guardian. If the appropriate signature cannot be obtained, only limited types of information can be provided. If the former member is deceased, the surviving next-of-kin may, under certain circumstances, be entitled to greater access to a deceased veteran's records than a member of the general public. The next-of-kin may be any of the following: unremarried surviving spouse, father, mother, son, daughter, sister, or brother. Requesters **MUST provide proof of death, such as a copy of a death certificate, newspaper article (obituary) or death notice, coroner's report of death, funeral director's signed statement of death, or verdict of coroner's jury.**

b. **Fees for records:** There is no charge for most services provided to service members or next-of-kin of deceased veterans. A nominal fee is charged for certain types of service. In most instances, service fees cannot be determined in advance. If your request involves a service fee, you will receive an invoice with your records.

3. Archival Records. Personnel records of military members who were discharged, retired, or died in service **62 OR MORE YEARS AGO** have been transferred to the legal custody of NARA and are referred to as "archival records".

a. **Release of Information:** Archival records are open to the public. The Privacy Act of 1974 does not apply to archival records, therefore, written authorization from the veteran or next-of-kin is not required. In order to protect the privacy of the veteran, his/her family, and third parties named in the records, the personal privacy exemption of the Freedom of Information Act (5 U.S.C. 552 (b) (6)) may still apply and may preclude the release of some information.

b. **Fees for Archival Records:** Access to archival records are granted by offering copies of the records for a fee (44 U.S.C. 2116 (c)). If a fee applies to the photocopies of documents in the requested record, you will receive an invoice. Photocopies will be sent after payment is made. For more information see <http://www.archives.gov/st-louis/archival-programs/military-personnel-archival/ompf-archival-requests.html>.

4. Where reply may be sent. The reply may be sent to the service member or any other address designated by the service member or other authorized requester. If the designated address is NOT registered to the addressee by the U.S. Postal Service (USPS), provide BOTH the addressee's name AND "in care of" (c/o) the name of the person to whom the address is registered on the NAME line in Section III, item 3, on page 1 of the SF 180. The COMPLETE address must be provided, INCLUDING any apartment/suite/unit/lot/space/etc. number.

5. Definitions and abbreviations. DISCHARGED -- the individual has no current military status; SERVICE TREATMENT RECORD (STR) -- The chronology of medical, mental health, and dental care received by service members during the course of their military career (does not include records of treatment while hospitalized); TDRL -- Temporary Disability Retired List.

6. Service completed before World War I. National Archives Trust Fund (NATF) forms must be used to request these records. Obtain the forms by e-mail from inquire@nara.gov or write to the Code 6 address on page 2 of the SF 180.

PRIVACY ACT OF 1974 COMPLIANCE INFORMATION

The following information is provided in accordance with 5 U.S.C. 552a(e)(3) and applies to this form. Authority for collection of the information is 44 U.S.C. 2907, 3101, and 3103, and Public Law 104-134 (April 26, 1996), as amended in title 31, section 7701. Disclosure of the information is voluntary. If the requested information is not provided, it may delay servicing your inquiry because the facility servicing the service member's record may not have all of the information needed to locate it. The purpose of the information on this form is to assist the facility servicing the records (see the address list) in locating the correct military service record(s) or information to answer your inquiry. This form is then retained as a record of disclosure. The form may also be disclosed to Department of Defense components, the Department of Veterans Affairs, the Department of Homeland Security (DHS, U.S. Coast Guard), or the National Archives and Records Administration when the original custodian of the military health and personnel records transfers all or part of those records to that agency. If the service member was a member of the National Guard, the form may also be disclosed to the Adjutant General of the appropriate state, District of Columbia, or Puerto Rico, where he or she served.

PAPERWORK REDUCTION ACT PUBLIC BURDEN STATEMENT

Public burden reporting for this collection of information is estimated to be five minutes per request, including time for reviewing instructions and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden, to National Archives and Records Administration (ISSD), 8601 Adelphi Road, College Park, MD 20740-6001. **DO NOT SEND COMPLETED FORMS TO THIS ADDRESS. SEND COMPLETED FORMS TO THE APPROPRIATE ADDRESS LISTED ON PAGE 2 OF THE SF 180.**

REQUEST PERTAINING TO MILITARY RECORDS

Requests from veterans or deceased veteran's next-of-kin may be submitted online by using eVetRecs at <http://www.archives.gov/veterans/military-service-records/>
To ensure the best possible service, please thoroughly review the accompanying instructions before filling out this form. PLEASE PRINT LEGIBLY OR TYPE BELOW.

SECTION I - INFORMATION NEEDED TO LOCATE RECORDS (Furnish as much information as possible.)

1. NAME USED DURING SERVICE (last, first, full middle)	2. SOCIAL SECURITY #	3. DATE OF BIRTH	4. PLACE OF BIRTH
--	----------------------	------------------	-------------------

5. SERVICE, PAST AND PRESENT (For an effective records search, it is important that ALL service be shown below.)

	BRANCH OF SERVICE	DATE ENTERED	DATE RELEASED	OFFICER	ENLISTED	SERVICE NUMBER (If unknown, write "unknown")
a. ACTIVE						
b. RESERVE						
c. STATE NATIONAL GUARD						

6. IS THIS PERSON DECEASED? NO YES - **MUST** provide Date of Death if veteran is deceased:

7. DID THIS PERSON RETIRE FROM MILITARY SERVICE? NO YES

SECTION II - INFORMATION AND/OR DOCUMENTS REQUESTED

1. CHECK THE ITEM(S) YOU ARE REQUESTING:

DD Form 214 or equivalent. Year(s) in which form(s) issued to veteran: _____

This form contains information normally needed to verify military service. A copy may be sent to the veteran, the deceased veteran's next-of-kin, or other persons or organizations, if authorized in Section III, below. An UNDELETED DD214 is ordinarily required to determine eligibility for benefits. If you request a DELETED copy, the following items will be blacked out: authority for separation, reason for separation, reenlistment eligibility code, separation (SPD/SPN) code, and, for separations after June 30, 1979, character of separation and dates of time lost.

An UNDELETED copy will be sent UNLESS YOU SPECIFY A DELETED COPY by checking this box: I want a DELETED copy.

Medical Records Includes Service Treatment Records, Health (outpatient) and Dental Records. IF HOSPITALIZED (inpatient) the FACILITY NAME and DATE (month and year) for EACH admission MUST be provided: _____

Other (Specify): _____

2. **PURPOSE:** (Providing information about the purpose of the request is strictly voluntary; however, it may help to provide the best possible response and may result in a faster reply. Information provided will in no way be used to make a decision to deny the request.)

Benefits (explain) Employment VA Loan Programs Medical Genealogy Correction Personal Other (explain)

Explain here: _____

SECTION III - RETURN ADDRESS AND SIGNATURE

1. **REQUESTER NAME:** _____

2. I am the MILITARY SERVICE MEMBER OR VETERAN identified in Section I, above.

I am the VETERAN'S LEGAL GUARDIAN (**MUST submit copy of Court Appointment**) or AUTHORIZED REPRESENTATIVE (**MUST submit copy of Authorization Letter or Power of Attorney**)

I am the DECEASED VETERAN'S NEXT-OF-KIN (**MUST submit Proof of Death. See item 2a on instruction sheet.**)

OTHER

(Relationship to deceased veteran)

(Specify type of Other)

3. **SEND INFORMATION/DOCUMENTS TO:**
(Please print or type. See item 4 on accompanying instructions.)

4. **AUTHORIZATION SIGNATURE:** I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the information in this Section III is true and correct and that I authorize the release of the requested information. (See items 2a or 3a on accompanying instruction sheet. Without the Authorization Signature of the veteran, next-of-kin of deceased veteran, veteran's legal guardian, authorized government agent, or other authorized representative, only limited information can be released unless the request is archival. No signature is required if the request is for archival records.)

Name _____

Street _____ Apt. _____

City _____ State _____ Zip Code _____

Signature Required - Do not print

Date

()
Daytime phone

()
Fax Number

Email address

* This form is available at <http://www.archives.gov/veterans-military-service-records/standard-form-180.pdf> on the National Archives and Records Administration (NARA) web site. *

The various categories of military service records are described in the chart below. For each category there is a code number which indicates the address at the bottom of the page to which this request should be sent. Please refer to the Instruction and Information Sheet accompanying this form as needed.

BRANCH	CURRENT STATUS OF SERVICE MEMBER	Personnel Record	Medical or Service Treatment Record
AIR FORCE	Discharged, deceased, or retired before 5/1/1994	14	14
	Discharged, deceased, or retired 5/1/1994 – 9/30/2004	14	11
	Discharged, deceased, or retired 10/1/2004 – 12/31/2013	1	11
	Discharged, deceased, or retired on or after 1/1/2014	1	13
	Active (including National Guard on active duty in the Air Force), TDRL, or general officers retired with pay	1	
	Reserve, IRR, Retired Reserve in non-pay status, current National Guard officers not on active duty in the Air Force, or National Guard released from active duty in the Air Force	2	
	Current National Guard enlisted not on active duty in the Air Force	2	13
COAST GUARD	Discharge, deceased, or retired before 1/1/1898	6	
	Discharged, deceased, or retired 1/1/1898 – 3/31/1998	14	14
	Discharged, deceased, or retired 4/1/1998 – 9/30/2006	14	11
	Discharged, deceased, or retired 10/1/2006 – 9/30/2013	3	11
	Discharged, deceased, or retired on or after 10/1/2013	3	14
	Active, Reserve, Individual Ready Reserve or TDRL	3	
MARINE CORPS	Discharged, deceased, or retired before 1/1/1895	6	
	Discharged, deceased, or retired 1/1/1895 – 12/31/1904	15	
	Discharged, deceased, or retired 1/1/1905 – 4/30/1994	14	14
	Discharged, deceased, or retired 5/1/1994 – 12/31/1998	14	11
	Discharged, deceased, or retired 1/1/1999 – 12/31/2013	4	11
	Discharged, deceased, or retired on or after 1/1/2014	4	8
	Individual Ready Reserve	5	
	Active, Selected Marine Corps Reserve, TDRL	4	
ARMY	Discharged, deceased, or retired before 11/1/1912 (enlisted) or before 7/1/1917 (officer)	6	
	Discharged, deceased, or retired 11/1/1912 – 10/15/1992 (enlisted) or 7/1/1917 – 10/15/1992 (officer)	14	
	Discharged, deceased, or retired 10/16/1992 – 9/30/2002	14	11
	Discharged, deceased, or retired (including TDRL) 10/1/2002 – 12/31/2013	7	11
	Discharged, deceased, or retired (including TDRL) on or after 1/1/2014	7	9
	Current Soldier (Active, Reserve (including Individual Ready Reserve) or National Guard)	7	
NAVY	Discharged, deceased, or retired before 1/1/1886 (enlisted) or before 1/1/1903 (officer)	6	
	Discharged, deceased, or retired 1/1/1886 – 1/30/1994 (enlisted) or 1/1/1903 – 1/30/1994 (officer)	14	14
	Discharged, deceased, or retired 1/31/1994 – 12/31/1994	14	11
	Discharged, deceased, or retired 1/1/1995 – 12/31/2013	10	11
	Discharged, deceased, or retired on or after 1/1/2014	10	8
	Active, Reserve, or TDRL	10	
PHS	Public Health Service - Commissioned Corps officers only	12	

ADDRESS LIST OF CUSTODIANS and SELF-SERVICE WEBSITES (BY CODE NUMBERS SHOWN ABOVE) – Where to write/send this form

1	Air Force Personnel Center HQ AFPC/DPSIRP 550 C Street West, Suite 19 Randolph AFB, TX 78150-4721	6	National Archives & Records Administration Research Services (RDTIR) 700 Pennsylvania Avenue NW Washington, DC 20408-0001	11	Department of Veterans Affairs Records Management Center ATTN: Release of Information P.O. Box 5020 St. Louis, MO 63115-5020
2	Air Reserve Personnel Center Records Management Branch (DPTSC) 18420 E. Silver Creek Avenue Building 390 MS 68 Buckley AFB, CO 80011	7	US Army Human Resources Command's web page: https://www.hrc.army.mil/TAGD/Accessing%20or%20Requesting%20Your%20Official%20Military%20Personnel%20File%20Documents or 1-888-ARMYHRC (1-888-276-9472)	12	Division of Commissioned Corps Officer Support ATTN: Records Officer 1101 Wootton Parkway, Plaza Level, Suite 100 Rockville, MD 20852
3	Commander, Personnel Service Center (BOPS-C-MR) MS7200 US Coast Guard 2703 Martin Luther King Jr Ave SE Washington, DC 20593-7200 MR_CustomerService@uscg.mil	8	Navy Medicine Records Activity (NMRA) BUMED Detachment St. Louis 4300 Goodfellow Boulevard, Building 103 St. Louis, MO 63120	13	AF STR Processing Center ATTN: Release of Information 3370 Nacogdoches Road, Suite 116 San Antonio, TX 78217
4	Headquarters U.S. Marine Corps Manpower Management Records & Performance (MMRP-10) 2008 Elliot Road Quantico, VA 22134-5030	9	AMEDD Record Processing Center 3370 Nacogdoches Road, Suite 116 San Antonio, TX 78217	14	National Personnel Records Center (Military Personnel Records) 1 Archives Drive St. Louis, MO 63138-1002 eVetRecs: http://www.archives.gov/veterans/military-service-records/
5	Marine Forces Reserve 2000 Opelousas Avenue New Orleans, LA 70146-5400	10	Navy Personnel Command (PERS-313) 5720 Integrity Drive Millington, TN 38055-3120	15	National Archives at St. Louis P.O. Box 38757 St. Louis, MO 63138

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**APPLICATION FOR THE REVIEW OF DISCHARGE
FROM THE ARMED FORCES OF THE UNITED STATES**

(Please read Privacy Act Statement and Instructions on Pages 3 and 4 BEFORE completing this application.)

OMB No. 0704-0004
OMB approval expires
Dec 31, 2017

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Alexandria, VA 22350-3100 (0704-0004). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

PLEASE DO NOT RETURN YOUR FORM TO THE ABOVE ADDRESS. RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON BACK OF THIS PAGE.

1. APPLICANT DATA *(The person whose discharge is to be reviewed).* **PLEASE PRINT OR TYPE INFORMATION.**

a. BRANCH OF SERVICE <i>(X one)</i>	<input type="checkbox"/> ARMY	<input type="checkbox"/> MARINE CORPS	<input type="checkbox"/> NAVY	<input type="checkbox"/> AIR FORCE	<input type="checkbox"/> COAST GUARD
b. NAME <i>(Last, First, Middle Initial)</i>			c. GRADE/RANK AT DISCHARGE		d. SOCIAL SECURITY NUMBER
e. CURRENT MAILING ADDRESS OF APPLICANT OR PERSON NAMED IN ITEM 11 <i>(Forward notification of any change in address.)</i>				f. TELEPHONE NUMBER <i>(Include Area Code)</i>	
				g. E-MAIL	
				h. FAX NUMBER <i>(Include Area Code)</i>	

2. DATE OF DISCHARGE OR SEPARATION <i>(YYYYMMDD) (If date is more than 15 years ago, submit a DD Form 149)</i>	4. DISCHARGE CHARACTERIZATION RECEIVED <i>(X one)</i>	5. BOARD ACTION REQUESTED <i>(X all that apply)</i>
	<input type="checkbox"/> HONORABLE	<input type="checkbox"/> CHANGE TO HONORABLE
	<input type="checkbox"/> GENERAL/UNDER HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO GENERAL/UNDER HONORABLE CONDITIONS
3. UNIT AND LOCATION AT DISCHARGE OR SEPARATION	<input type="checkbox"/> UNDER OTHER THAN HONORABLE CONDITIONS	<input type="checkbox"/> CHANGE TO UNCHARACTERIZED <i>(Not applicable to Air Force or service members with over 6 months of service)</i>
	<input type="checkbox"/> BAD CONDUCT <i>(Special Court-Martial only)</i>	<input type="checkbox"/> CHANGE NARRATIVE REASON FOR SEPARATION:
	<input type="checkbox"/> UNCHARACTERIZED	
	<input type="checkbox"/> OTHER <i>(Explain)</i>	

6. ISSUES: WHY AN UPGRADE OR CHANGE IS REQUESTED AND JUSTIFICATION FOR THE REQUEST *(Continue in Item 13. See instructions on Page 3.)*

7. *(X if applicable)* AN APPLICATION WAS PREVIOUSLY SUBMITTED ON *(YYYYMMDD)* _____ AND THIS FORM IS SUBMITTED TO ADD ADDITIONAL ISSUES, JUSTIFICATION, OR EVIDENCE.

8. IN SUPPORT OF THIS APPLICATION, THE FOLLOWING ATTACHED DOCUMENTS ARE SUBMITTED AS EVIDENCE: *(Continue in Item 14. If military documents or medical records are relevant to your case, please send copies.)*

9. TYPE OF REVIEW REQUESTED *(X one)*

CONDUCT A RECORD REVIEW OF MY DISCHARGE BASED ON MY MILITARY PERSONNEL FILE AND ANY ADDITIONAL DOCUMENTATION SUBMITTED BY ME. I AND/OR *(counsel/representative)* WILL NOT APPEAR BEFORE THE BOARD.

I AND/OR *(counsel/representative)* WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE THE BOARD IN THE WASHINGTON, D.C. METROPOLITAN AREA.

I AND/OR *(counsel/representative)* WISH TO APPEAR AT A HEARING AT NO EXPENSE TO THE GOVERNMENT BEFORE A TRAVELING PANEL CLOSEST TO *(enter city and state)* _____ (NOTE: The Naval and Coast Guard Discharge Review Boards do not have traveling panels.)

10.a. COUNSEL/REPRESENTATIVE <i>(If any)</i> NAME <i>(Last, First, Middle Initial)</i> AND ADDRESS <i>(See Item 10 of the instructions about counsel/representative.)</i>	b. TELEPHONE NUMBER <i>(Include Area Code)</i>
	c. E-MAIL
	d. FAX NUMBER <i>(Include Area Code)</i>

11. APPLICANT MUST SIGN IN ITEM 12.a. BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name *(print)* _____ and relationship by marking a box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER *(Specify)* _____

12. CERTIFICATION. I make the foregoing statements, as part of my claim, with full knowledge of the penalties involved for willfully making a false statement or claim. <i>(U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)</i>	CASE NUMBER <i>(Do not write in this space.)</i>
a. SIGNATURE - REQUIRED <i>(Applicant or person in Item 11 above)</i>	b. DATE SIGNED - REQUIRED <i>(YYYYMMDD)</i>

PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1553, Review of Discharge or Dismissal; DoD Instruction 1332.28, Discharge Review Board (DRB) Procedures and Standards; and E.O. 9397 (SSN), as amended.

PRINCIPAL PURPOSE(S): To apply for a change in the characterization or reason for military discharge issued to an individual. The appropriate Military Service Discharge Review Board reviews submitted packages and makes determinations. Completed forms are covered by the correction of discharge review board and official military records SORNs maintained by each of the Military Services. The DoD Systems of Records Notices can be located at <http://dpdcd.defense.gov/Privacy/SORNsIndex/DODComponentNotices.aspx>.

ROUTINE USE(S): The DoD Blanket Routine Uses found at <http://dpdcd.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx> may apply to this collection.

DISCLOSURE: Voluntary. However, failure to provide identifying information may impede processing of this application. The SSN is used by the Military Services to ensure the correct individual's official military personnel file is updated.

Applicable SORNs:

Discharge Review Board Records:

Army (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6000/a0015-185-sfmr.aspx>)

Navy/Marine Corps (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6510/nm01000-1.aspx>)

Air Force (<http://dpdcd.defense.gov/Privacy/SORNsIndex/tabid/5915/Article/5899/f036-safcb-a.aspx>)

Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

Official Military Personnel Files:

Army (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6131/a0600-8-104-ahrc.aspx>)

Navy (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6405/n01070-3.aspx>)

Marine Corps (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODComponentArticleView/tabid/7489/Article/6775/m01070-6.aspx>)

Air Force (<http://dpdcd.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/5876/f036-af-pc-c.aspx>)

Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

INSTRUCTIONS FOR COMPLETION OF DD FORM 293

REQUESTING COPIES OF YOUR OFFICIAL MILITARY PERSONNEL FILE

Information on how to obtain military or health records is available at the National Personnel Records Center website at www.nara.gov/regional/mpr.html or at your local Veterans Administration office.

Applicants are strongly encouraged to submit any request for their military records prior to applying for a discharge review rather than after submitting a DD Form 293 in order to avoid substantial delays in processing of the application and scheduling of review. Applicants and their counsel may also examine their military personnel records at the site of their scheduled review prior to the review. The Board shall notify applicants of the date of availability of the records for examination in their standard scheduling information.

Submission of a request for an applicant's military records (including a request pursuant to the Freedom of Information Act or Privacy Act) after the DD Form 293 has been submitted will automatically result in the suspension of processing of the application for discharge review until the requested records are sent to an appropriate location for copying, are copied, and are returned to the possession of the headquarters of the Discharge Review Board. Processing of the application shall then be resumed at whatever stage of the discharge review process is practicable.

DD FORM 293 - PLEASE PRINT OR TYPE INFORMATION. (Items on the form are self-explanatory unless otherwise noted below.)

ITEM 1b. Use the name which you served under while in the Armed Forces. If your name has since changed, then also include your current name after adding the abbreviation "AKA". If the former member is deceased or incompetent, see Item 11.

ITEM 1e. Indicate the address to be used for all future correspondence regarding this application. If you change this address while this application is pending, you must notify the Discharge Review Board immediately. Failure to attend a hearing as a result of an unreported change in address may result in a waiver of your right to a hearing.

ITEM 2. If you received more than one discharge, the information in this item should refer to the discharge that you want changed. Discharge Review Boards cannot consider any type of discharge resulting from a sentence given by a general court-martial.

ITEM 3. If the discharge you want reviewed was issued over 15 years ago, instead of applying on a DD Form 293, you must petition the appropriate Board for Correction of Military Record using DD Form 149, Application for Correction of Military Record Under the Provisions of Title 10, U.S. Code, Section 1552.

ITEM 5. If you request a change of narrative reason for separation, you must list the specific reason for discharge that you believe to be appropriate, otherwise the Board will presume that you do not want a change in reason for discharge. If you do not request a change of discharge characterization in this item, the Board will presume you want to change discharge to Honorable.

If you were separated on or after 1 October 1982 while in an entry level status with an under other than honorable conditions discharge and less than 180 days of active service, you can request a change of discharge characterization to "Uncharacterized" and discharge reason to "Entry Level Separation".

ITEM 6. "Issues" are the reasons why you think your discharge should be changed. You are not required to submit any issues with your application. However, if you want the Board to respond in writing to the issues of concern, you must list your specific issues in accordance with those instructions and regulations governing the Board. Issues must be stated clearly and specifically. Your issues should address the reasons why you believe that the discharge received was improper or inequitable. It is important to focus on matters that occurred while you served in the Armed Forces.

The following examples demonstrate one way in which issues may be stated (the example issues do not indicate, in any way, the only type of issues that should be submitted to the Board):

Example 1. My discharge was inequitable because it was based on one isolated incident in 28 months of service with no other adverse action.

**APPLICATION FOR CORRECTION OF MILITARY RECORD
UNDER THE PROVISIONS OF TITLE 10, U.S. CODE, SECTION 1552**
(Please read Privacy Act Statement and instructions on back BEFORE completing this application.)

OMB No. 0704-0003
OMB approval expires
Dec 31, 2017

The public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Department of Defense, Washington Headquarters Services, Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Alexandria, VA 22350-3100 (0704-0003). Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.

RETURN COMPLETED FORM TO THE APPROPRIATE ADDRESS ON THE BACK OF THIS PAGE.

1. APPLICANT DATA *(The person whose record you are requesting to be corrected.)*

a. BRANCH OF SERVICE (X one)	ARMY	NAVY	AIR FORCE	MARINE CORPS	COAST GUARD
b. NAME (Print - Last, First, Middle Initial)	c. PRESENT OR LAST PAY GRADE		d. SERVICE NUMBER (If applicable)	e. SSN	

2. PRESENT STATUS WITH RESPECT TO THE ARMED SERVICES <i>(Active Duty, Reserve, National Guard, Retired, Discharged, Deceased)</i>	3. TYPE OF DISCHARGE <i>(If by court-martial, state the type of court.)</i>	4. DATE OF DISCHARGE OR RELEASE FROM ACTIVE DUTY (YYYYMMDD)
---	---	---

5. I REQUEST THE FOLLOWING ERROR OR INJUSTICE IN THE RECORD BE CORRECTED AS FOLLOWS: *(Entry required)*

6. I BELIEVE THE RECORD TO BE IN ERROR OR UNJUST FOR THE FOLLOWING REASONS: *(Entry required)*

a. IS THIS A REQUEST FOR RECONSIDERATION OF A PRIOR APPEAL?	YES NO	b. IF YES, WHAT WAS THE DOCKET NUMBER?	c. DATE OF THE DECISION
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7. ORGANIZATION AND APPROXIMATE DATE (YYYYMMDD) AT THE TIME THE ALLEGED ERROR OR INJUSTICE IN THE RECORD OCCURRED *(Entry required)*

8. DISCOVERY OF ALLEGED ERROR OR INJUSTICE

a. DATE OF DISCOVERY (YYYYMMDD)	b. IF MORE THAN THREE YEARS SINCE THE ALLEGED ERROR OR INJUSTICE WAS DISCOVERED, STATE WHY THE BOARD SHOULD FIND IT IN THE INTEREST OF JUSTICE TO CONSIDER THE APPLICATION.
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9. IN SUPPORT OF THIS APPLICATION, I SUBMIT AS EVIDENCE THE FOLLOWING ATTACHED DOCUMENTS: *(If military documents or medical records are pertinent to your case, please send copies. If Veterans Affairs records are pertinent, give regional office location and claim number.)*

10. I DESIRE TO APPEAR BEFORE THE BOARD IN WASHINGTON, D.C. *(At no expense to the Government)* (X one) YES. THE BOARD WILL DETERMINE IF WARRANTED. NO. CONSIDER MY APPLICATION BASED ON RECORDS AND EVIDENCE.

11.a. COUNSEL (If any) NAME (Last, First, Middle Initial) and ADDRESS (Include ZIP Code)	b. TELEPHONE (Include Area Code)
	c. E-MAIL ADDRESS
	d. FAX NUMBER (Include Area Code)
e. I WOULD LIKE ALL CORRESPONDENCE/DOCUMENTS SENT TO ME ELECTRONICALLY.	YES <input type="checkbox"/> NO <input type="checkbox"/>

12. APPLICANT MUST SIGN IN ITEM 15 BELOW. If the record in question is that of a deceased or incompetent person, LEGAL PROOF OF DEATH OR INCOMPETENCY MUST ACCOMPANY THE APPLICATION. If the application is signed by other than the applicant, indicate the name *(print)* and relationship by marking one box below.

SPOUSE WIDOW WIDOWER NEXT OF KIN LEGAL REPRESENTATIVE OTHER *(Specify)*

13.a. COMPLETE CURRENT ADDRESS (Include ZIP Code) OF APPLICANT OR PERSON IN ITEM 12 ABOVE <i>(Forward notification of all changes of address.)</i>	b. TELEPHONE (Include Area Code)
	c. E-MAIL ADDRESS
	d. FAX NUMBER (Include Area Code)

14. I MAKE THE FOREGOING STATEMENTS, AS PART OF MY CLAIM, WITH FULL KNOWLEDGE OF THE PENALTIES INVOLVED FOR WILLFULLY MAKING A FALSE STATEMENT OR CLAIM. <i>(U.S. Code, Title 18, Sections 287 and 1001, provide that an individual shall be fined under this title or imprisoned not more than 5 years, or both.)</i>	CASE NUMBER <i>(Do not write in this space.)</i>
--	--

15. SIGNATURE <i>(Applicant must sign here.)</i>	16. DATE SIGNED (YYYYMMDD)
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PRIVACY ACT STATEMENT

AUTHORITY: 10 U.S.C. 1552 and E.O. 9397, as amended (SSN).

PRINCIPAL PURPOSE(S): To initiate an application for correction of military record. The form is used by Board members for review of pertinent information in making a determination of relief through correction of a military record. Completed forms are covered by correction of military records SORNs maintained by each of the Services or the Defense Finance and Accounting Service. The DoD Systems of Records Notices can be located at: <http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentNotices.aspx>.

ROUTINE USE(S): The DoD Blanket Routine Uses at <http://dpclo.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx> may apply to this collection.

DISCLOSURE: Voluntary. However, failure by an applicant to provide the information not annotated as "optional" may result in a denial of your application. An applicant's SSN is used to retrieve these records and links to the member's official military personnel file and pay record.

Applicable SORNs:

- Army (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentArticleView/tabid/7489/Article/6000/a0015-185-sfmr.aspx>)
- Navy and Marine Corps (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6510/nm01000-1.aspx>)
- Air Force (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/5904/f036-safpc-d.aspx>)
- Defense Finance and Accounting Service (<http://privacy.defense.gov/notices/dfas/T5015a.shtml>)
- Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

Official Military Personnel Files:

- Army (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6131/a0600-8-104-ahrc.aspx>)
- Navy (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/6405/n01070-3.aspx>)
- Marine Corps (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODComponentArticleView/tabid/7489/Article/6775/m01070-6.aspx>)
- Air Force (<http://dpclo.defense.gov/Privacy/SORNsIndex/DODwideSORNArticleView/tabid/6797/Article/5876/f036-af-pc-c.aspx>)
- Coast Guard (<http://www.gpo.gov/fdsys/pkg/FR-2011-10-28/html/2011-27881.htm>)

INSTRUCTIONS

Under Title 10 United States Code Section 1552, Active Duty and Reserve Component Service members, Coast Guard, former Service members, their lawful or legal representatives, spouses of former Service members on issues of Survivor Benefit Program (SBP) benefits, and civilian employees with respect to military records other than those related to civilian employment, who feel that they have suffered an injustice as a result of error or injustice in military records may apply to their respective Boards for Correction of Military Records (BCMR) for a correction of their military records. These Boards are the highest level appellate review authority in the military. The information collected is needed to provide the Boards the basic data needed to process and act on the request.

1. All information should be typed or printed. Complete all applicable items. If the item is not applicable, enter "None."
2. If space is insufficient on the front of the form, use the "Remarks" box below for additional information or attach an additional sheet.
3. List all attachments and enclosures in item 9. Do not send original documents. Send clear, legible copies. Send copies of military documents and orders related to your request, if you have them available. Do not assume that they are all in your military record.
4. The applicant must exhaust all administrative remedies, such as corrective procedures and appeals provided in regulations, before applying to the Board of Corrections.
5. ITEM 5. State the specific correction of record desired. If possible, identify exactly what document or information in your record you believe to be erroneous or unjust and indicate what correction you want made to the document or information.
6. ITEM 6. In order to justify correction of a military record, it is necessary for you to show to the satisfaction of the Board by the evidence that you supply, or it must otherwise satisfactorily appear in the record, that the alleged entry or omission in the record was in error or unjust. Evidence, in addition to documents, may include affidavits or signed testimony of witnesses, executed under oath, and a brief of arguments supporting the application. All evidence not already included in your record must be submitted by you. The responsibility of securing evidence rests with you.
7. ITEM 8. U.S. Code, Title 10, Section 1552b, provides that no correction may be made unless a request is made within three years after the discovery of the error or injustice, but that the Board may excuse failure to file within three years after discovery if it finds it to be in the interest of justice.
8. ITEM 10. Personal appearance before the Board by you and your witnesses or representation by counsel is not required to ensure full and impartial consideration of your application. If the Board determines that a personal appearance is warranted and grants approval, appearance and representation are permitted before the Board at no expense to the government.
9. ITEM 11. Various veterans and service organizations furnish counsel without charge. These organizations prefer that arrangements for representation be made through local posts or chapters.
10. ITEM 12. The person whose record correction is being requested must sign the application. If that person is deceased or incompetent to sign, the application may be signed by a spouse, widow, widower, next of kin (son, daughter, mother, father, brother, or sister), or a legal representative that has been given power of attorney. Other persons may be authorized to sign for the applicant. Proof of death, incompetency, or power of attorney must accompany the application. Former spouses may apply in cases of Survivor Benefit Plan (SBP) issues.
11. For detailed information on application and Board procedures, see: Army Regulation 15-185 and www.arba.army.pentagon.mil; Navy - SECNAVINST 5420.193 and www.hq.navy.mil/bcnr/bcnr.htm; Air Force Instruction 36-2603, Air Force Pamphlet 36-2607, and www.afpc.randolph.af.mil/safmrbr; Coast Guard - Code of Federal Regulations, Title 33, Part 52.

MAIL COMPLETED APPLICATIONS TO APPROPRIATE ADDRESS BELOW

ARMY	NAVY AND MARINE CORPS	AIR FORCE	COAST GUARD
Army Review Boards Agency 251 18th Street South, Suite 385 Arlington, VA 22202-3531	Board for Correction of Naval Records 701 S. Courthouse Road, Suite 1001 Arlington, VA 22204-2490	Board for Correction of Air Force Records SAF/MRBR 550-C Street West, Suite 40 Randolph AFB, TX 78150-4742	Department of Homeland Security Office of the General Counsel Board for Correction of Military Records 245 Murray Lane, Stop 0485 Washington, DC 20528-0485

17. REMARKS

FORM

STATUTORY DURABLE POWER OF ATTORNEY

NOTICE: THE POWERS GRANTED BY THIS DOCUMENT ARE BROAD AND SWEEPING. THEY ARE EXPLAINED IN THE DURABLE POWER OF ATTORNEY ACT, SUBTITLE P, TITLE 2, ESTATES CODE. IF YOU HAVE ANY QUESTIONS ABOUT THESE POWERS, OBTAIN COMPETENT LEGAL ADVICE. THIS DOCUMENT DOES NOT AUTHORIZE ANYONE TO MAKE MEDICAL AND OTHER HEALTH-CARE DECISIONS FOR YOU. YOU MAY REVOKE THIS POWER OF ATTORNEY IF YOU LATER WISH TO DO SO.

You should select someone you trust to serve as your agent (attorney in fact). Unless you specify otherwise, generally the agent's (attorney in fact's) authority will continue until:

- (1) you die or revoke the power of attorney;
- (2) your agent (attorney in fact) resigns or is unable to act for you; or
- (3) a guardian is appointed for your estate.

I, _____ (insert your name and address), appoint _____ (insert the name and address of the person appointed) as my agent (attorney in fact) to act for me in any lawful way with respect to all of the following powers that I have initialed below.

TO GRANT ALL OF THE FOLLOWING POWERS, INITIAL THE LINE IN FRONT OF (N) AND IGNORE THE LINES IN FRONT OF THE OTHER POWERS LISTED IN (A) THROUGH (M).

TO GRANT A POWER, YOU MUST INITIAL THE LINE IN FRONT OF THE POWER YOU ARE GRANTING.

TO WITHHOLD A POWER, DO NOT INITIAL THE LINE IN FRONT OF THE POWER. YOU MAY, BUT DO NOT NEED TO, CROSS OUT EACH POWER WITHHELD.

- ___ (A) Real property transactions;
- ___ (B) Tangible personal property transactions;
- ___ (C) Stock and bond transactions;
- ___ (D) Commodity and option transactions;
- ___ (E) Banking and other financial institution transactions;
- ___ (F) Business operating transactions;
- ___ (G) Insurance and annuity transactions;
- ___ (H) Estate, trust, and other beneficiary transactions;
- ___ (I) Claims and litigation;
- ___ (J) Personal and family maintenance;
- ___ (K) Benefits from social security, Medicare, Medicaid, or other governmental programs or civil or military service;
- ___ (L) Retirement plan transactions;
- ___ (M) Tax matters;

____ (N) ALL OF THE POWERS LISTED IN (A) THROUGH (M). YOU DO NOT HAVE TO INITIAL THE LINE IN FRONT OF ANY OTHER POWER IF YOU INITIAL LINE (N).

SPECIAL INSTRUCTIONS:

Special instructions applicable to gifts (initial in front of the following sentence to have it apply):

____ I grant my agent (attorney in fact) the power to apply my property to make gifts outright to or for the benefit of a person, including by the exercise of a presently exercisable general power of appointment held by me, except that the amount of a gift to an individual may not exceed the amount of annual exclusions allowed from the federal gift tax for the calendar year of the gift.

ON THE FOLLOWING LINES YOU MAY GIVE SPECIAL INSTRUCTIONS LIMITING OR EXTENDING THE POWERS GRANTED TO YOUR AGENT.

UNLESS YOU DIRECT OTHERWISE ABOVE, THIS POWER OF ATTORNEY IS EFFECTIVE IMMEDIATELY AND WILL CONTINUE UNTIL IT IS REVOKED.

CHOOSE ONE OF THE FOLLOWING ALTERNATIVES BY CROSSING OUT THE ALTERNATIVE NOT CHOSEN:

(A) This power of attorney is not affected by my subsequent disability or incapacity.

(B) This power of attorney becomes effective upon my disability or incapacity.

YOU SHOULD CHOOSE ALTERNATIVE (A) IF THIS POWER OF ATTORNEY IS TO BECOME EFFECTIVE ON THE DATE IT IS EXECUTED.

IF NEITHER (A) NOR (B) IS CROSSED OUT, IT WILL BE ASSUMED THAT YOU CHOSE ALTERNATIVE (A).

If Alternative (B) is chosen and a definition of my disability or incapacity is not contained in this power of attorney, I shall be considered disabled or incapacitated for purposes of this power of attorney if a physician certifies in writing at a date later than the date this power of attorney is executed that, based on the physician's medical examination of me, I am mentally incapable of managing my financial affairs. I authorize the physician who examines me for this purpose to disclose my physical or mental condition to another person for purposes of this power

of attorney. A third party who accepts this power of attorney is fully protected from any action taken under this power of attorney that is based on the determination made by a physician of my disability or incapacity.

I agree that any third party who receives a copy of this document may act under it. Revocation of the durable power of attorney is not effective as to a third party until the third party receives actual notice of the revocation. I agree to indemnify the third party for any claims that arise against the third party because of reliance on this power of attorney.

If any agent named by me dies, becomes legally disabled, resigns, or refuses to act, I name the following (each to act alone and successively, in the order named) as successor(s) to that agent: _____.

Signed this _____ day of _____, _____

(your signature)

State of _____

County of _____

This document was acknowledged before me on _____ (date) by

(name of principal)

(signature of notarial officer)

(Seal, if any, of notary) _____

(printed name)

My commission expires: _____

IMPORTANT INFORMATION FOR AGENT (ATTORNEY IN FACT)

Agent's Duties

When you accept the authority granted under this power of attorney, you establish a "fiduciary" relationship with the principal. This is a special legal relationship that imposes on you legal duties that continue until you resign or the power of attorney is terminated or revoked by the principal or by operation of law. A fiduciary duty generally includes the duty to:

- (1) act in good faith;
- (2) do nothing beyond the authority granted in this power of attorney;
- (3) act loyally for the principal's benefit;
- (4) avoid conflicts that would impair your ability to act in the principal's best

interest; and

(5) disclose your identity as an agent or attorney in fact when you act for the principal by writing or printing the name of the principal and signing your own name as "agent" or "attorney in fact" in the following manner:

(Principal's Name) by (Your Signature) as Agent (or as Attorney in Fact)

In addition, the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code) requires you to:

(1) maintain records of each action taken or decision made on behalf of the principal;

(2) maintain all records until delivered to the principal, released by the principal, or discharged by a court; and

(3) if requested by the principal, provide an accounting to the principal that, unless otherwise directed by the principal or otherwise provided in the Special Instructions, must include:

(A) the property belonging to the principal that has come to your knowledge or into your possession;

(B) each action taken or decision made by you as agent or attorney in fact;

(C) a complete account of receipts, disbursements, and other actions of you as agent or attorney in fact that includes the source and nature of each receipt, disbursement, or action, with receipts of principal and income shown separately;

(D) a listing of all property over which you have exercised control that includes an adequate description of each asset and the asset's current value, if known to you;

(E) the cash balance on hand and the name and location of the depository at which the cash balance is kept;

(F) each known liability;

(G) any other information and facts known to you as necessary for a full and definite understanding of the exact condition of the property belonging to the principal; and

(H) all documentation regarding the principal's property.

Termination of Agent's Authority

You must stop acting on behalf of the principal if you learn of any event that terminates this power of attorney or your authority under this power of attorney. An event that terminates this power of attorney or your authority to act under this power of attorney includes:

(1) the principal's death;

(2) the principal's revocation of this power of attorney or your authority;

(3) the occurrence of a termination event stated in this power of attorney;

(4) if you are married to the principal, the dissolution of your marriage by court decree of divorce or annulment;

(5) the appointment and qualification of a permanent guardian of the principal's estate; or

(6) if ordered by a court, the suspension of this power of attorney on the appointment and qualification of a temporary guardian until the date the term of the temporary guardian expires.

Liability of Agent

The authority granted to you under this power of attorney is specified in the Durable Power of Attorney Act (Subtitle P, Title 2, Estates Code). If you violate the Durable Power of Attorney Act or act beyond the authority granted, you may be liable for any damages caused by the violation or subject to prosecution for misapplication of property by a fiduciary under Chapter [32](#) of the Texas Penal Code.

THE ATTORNEY IN FACT OR AGENT, BY ACCEPTING OR ACTING UNDER THE APPOINTMENT, ASSUMES THE FIDUCIARY AND OTHER LEGAL RESPONSIBILITIES OF AN AGENT. _____(date)

_____ (Date)

District Clerk
_____ County

_____, Texas _____

Dear Clerk:

Enclosed are the original and one copy of Petitioner _____ Petition for Expunction of Records as well as a motion for bench warrant or in the alternative motion for hearing by conference call. Please file the original and bring it to the attention of the Court. Also, please date-stamp the copy and return it to me in the enclosed envelope. Attached to the petition is a Declaration of Inability to Pay Costs. I am asking to proceed in forma pauperis in this matter.

Please inform me when the Court sets this motion for a hearing. I appreciate your attention to this matter.

Sincerely,

Name
Petitioner, Pro Se
TDCJ-ID #
Texas Department of Criminal Justice -
Institutional Division
_____ Unit

_____, Texas _____

No. _____

EX PARTE

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

PETITION FOR EXPUNCTION OF RECORDS

NOW COMES _____, Petitioner, acting pro se, and petitions this Court to order the expunction of all records and files arising out of Petitioner's charge and confinement in _____ County cause number _____, and in support of this petition would show the Court the following:

I.

Petitioner is a (race) (sex) whose full name is _____. Petitioner was born on _____ and was housed at the _____ Unit of the Texas Department of Criminal Justice - Institutional Division, located in _____ County, Texas, at the time of the charge at issue. Petitioner's Social Security Number is _____.

II.

On _____, petitioner was served with a copy of the indictment in Cause No. _____, in lieu of formal arrest, by a _____ County Deputy Sheriff. Petitioner was charged with committing the offense of _____ on _____; and cause number _____ was filed against Petitioner in the _____ District Court of _____ County, Texas.

III.

Petitioner has reason to believe that the following agencies, officials, or other public entities of this state have records concerning the charge in Cause No. _____:

- (1) Texas Board of Pardons and Paroles
P. O. Box 13401
Austin, Texas 78711-3401
- (2) Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001
- (3) Texas Department of Criminal Justice
Office of the Inspector General
Investigations Department
P.O. Box 4003
Huntsville, TX 77340
- (4) Texas Department of Criminal Justice
Classification and Records Office
P.O. Box 99
Huntsville, Texas 77342-0099

- (5) Texas Department of Criminal Justice
P. O. Box 13401
Austin, Texas 78711-3401
- (6) _____ County Sheriff's Office
Address in Convicting County
- (7) _____ County District Clerk
Address in Convicting County

IV.

Pursuant to Chapter 55 of the Code of Criminal Procedure, petitioner is entitled to have all records and files concerning the charge in this case expunged for the following reason: Petitioner was tried for the aforementioned offense on _____(date) through _____(date) and was acquitted by the trial court pursuant to the jury's verdict of not guilty on _____(date).

WHEREFORE, the petitioner prays the court:

1. To set this matter for a hearing.
2. To give reasonable notice of the hearing to each official, agency, or other public entity name in paragraph III of this petition pursuant to Article 55.02, Section 2 of the Texas Code of Criminal Procedure.
3. After the hearing of this matter, to order each official, agency, or other public entity that there is reason to believe possesses records or files concerning the charge in Cause No. _____.
 - a. Return all records and files concerning the arrest to the court, or if removal is impracticable, obliterate all references to petitioner and notify the court of its action.
 - b. Request each central federal depository to which it supplied information concerning the charge against petitioner to return all such records and files to the court, or if removal is impracticable, to obliterate all references to petitioner and notify the court of its action.
 - c. Delete from its public records all index references to the above-mentioned charge against petitioner.
4. To direct the clerk of the court to send a certified copy of the order by certified mail, return receipt requested, to the Department of Public Safety and to each official, agency, or other entity named in paragraph III of the petition; and to direct the Department of Public Safety to send to each central federal depository an explanation of the effect of the order as well as a request for the return or destruction of the records held by the central federal depository.

5. To return to the petitioner all records, files, and notification of the disposition of records and files returned to the court pursuant to its expunction order within a reasonable time of the receipt of same.

Respectfully submitted,

Name
Petitioner, Pro Se
TDCJ-ID #
Texas Department of Criminal Justice
_____ Unit

_____, Texas _____

AFFIDAVIT

BEFORE ME, the undersigned authority, on this day personally appeared _____, who after being duly sworn stated:

“I am the petitioner in this cause. I have read the petition for expunction of records and swear that all of the allegations of fact contained in the petition are true and correct.”

Petitioner/Affiant

STATE OF _____ §

COUNTY OF _____ §

SIGNED under oath before me on _____, by _____, Respondent, personally known to me and/or identified by Texas Driver’s License number _____.

Notary Public, State of Texas

I, the notary public whose signature appears above, certify that I am not an attorney in this case.

ORDER SETTING HEARING DATE

IT IS ORDERED that the hearing on the Petition for Expunction of records is hereby set for _____ am/pm on the _____ day of _____, _____, in the courtroom of the _____ District Court, in _____, Texas.

SIGNED this the _____ day of _____, _____.

JUDGE PRESIDING

DECLARATION OF INABILITY TO PAY COST

The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6 Chapter 132 of the Civil Practice and Remedies Code.

Now respectfully comes _____, TDCJ # _____, and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice –Institutional Division where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice –Institutional Division I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank account and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ and restitution.
- (9) My monthly expenses are approximately \$_____.

I, (Offender’s name and TDCJ #), being presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice –Institutional Division in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, _____.

Name:
TDCJ-ID #:

_____, Texas _____

CAUSE NO. _____

EX PARTE

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

**MOTION FOR BENCH WARRANT OR IN THE ALTERNATIVE
MOTION FOR HEARING BY CONFERENCE CALL**

_____ (Petitioner) in the above styled and numbered cause appeared in person before me today and stated under oath and penalty of perjury, in accordance with Title 6 of the Texas Civil Practices and Remedies Code, Chapter 132:

“My name is _____ (Petitioner), my offender number is: _____ . I am competent to make this affidavit. I am presently incarcerated in the _____ unit located at _____ in _____ (City), _____ (State). I am unable to personally appear before the Court and give testimony in this cause and respectfully request the court to issue a Warrant from the Bench ordering the Sheriff of _____ (Name of County in which you are incarcerated) County, to transport me to this Court for the final hearing in this matter, so that I may give testimony. In the alternative, I ask the Court to hold a hearing by telephone conference call with me by calling _____ (area code and phone number of unit).

PRAYER

Petitioner respectfully prays that this Court grant this motion and order the Sheriff of _____ County to transport Petitioner to the final hearing of this cause.

Respectfully submitted,

Name
Petitioner, Pro Se
TDCJ-ID #
Texas Department of Criminal Justice -
Institutional Division
_____ Unit

_____, Texas _____

CAUSE NO. _____

EX PARTE _____
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IN THE _____ DISTRICT COURT
OF
_____ COUNTY, TEXAS

ORDER OF EXPUNCTION

On this the _____ day of _____, _____, came on to be heard petitioner’s Petition for Expunction of Records, and it appears to the court that this petition should be granted.

IT IS THEREFORE ORDERED that:

1. Any and all records and/or files of (Offender’s name) concerning the arrest on _____, _____, in _____ County, Texas, are hereby expunged. In this order “records and/or files . . . concerning the arrest” shall include, but are not limited to, any mention in Petitioner’s Texas Department of Criminal Justice-Institutional Division (TDCJ-ID) Classification and Records file, TDCJ Parole Division file, including any records maintained in the TDCJ-ID mainframe computer, mentioning Petitioner’s arrest for alleged involvement in the _____(offense). In this order “records and/or files . . . concerning the arrest” shall also include, but is not limited to, any mention in Petitioner’s Board of Pardons and Paroles file, whether written or electronically maintained, which mention Petitioner’s alleged involvement in the _____(offense).
2. Any official, agency, or other entity listed below that has sent information concerning the arrest to a central federal depository of criminal records request the agency to return the records to the court, or if removal is impractical, to obliterate all references concerning the petitioner and notify the court of its action.
3. Each official, agency, or other entity listed below return all records and files concerning the arrest to the court, to obliterate all references concerning the petitioner and notify the court of its action.
4. Each official, agency, or other entity listed below delete from its public records all index references to the arrest of the petitioner that is the subject of the cause.
5. The clerk of the court send a certified copy of this order by certified mail, return receipt requested, to the following:
 - (1) Texas Board of Pardons and Paroles
P.O. Box 13401
Capitol Station
Austin, Texas 78711
 - (2) Texas Department of Public Safety
P. O. Box 4087
Austin, Texas 78773-0001

- (3) Texas Department of Criminal Justice
Internal Affairs Division
P. O. Box 4003
Huntsville, Texas 77342-4003
- (4) Texas Department of Criminal Justice
Classification and Records Office
P. O. Box 99
Huntsville, Texas 77342-0022
- (5) Texas Department of Criminal Justice
Parole Division
P.O. Box 13401, Capitol Station
Austin, Texas 78711
- (6) _____ County Sheriff's Office
Address in Convicting County
- (7) _____ County District Clerk
Address in Convicting County

and that the Department of Public Safety send to the Federal Bureau of Investigation an explanation of the effect of the order and request it to return or destroy the records of petitioner in compliance with this Order.

SIGNED this the _____ day of _____, _____.

JUDGE PRESIDING

_____ (date)

Criminal History Inquiry Unit
Texas Department of Public Safety
PO Box 4143
Austin, TX 78765-4143

RE: Name: _____ TDCJ #: _____ County Cause No.

To Whom It May Concern:

By this letter I am requesting you send me a certified copy of my DPS Arrest Report/CR43/Fingerprint Card/Self-Proving Affidavit. The information you require is:

Offender:	_____
TDCJ #:	_____
DOB:	_____
SID No.:	_____
Offense Charged:	_____
Offense Date:	_____
County:	_____

If there are any questions about this request, I can be reached at the below address. I appreciate your assistance with this matter.

Sincerely,

Name
Petitioner, Pro Se
TDCJ-ID #
Texas Department of Criminal Justice -
Institutional Division
_____ Unit

_____, Texas _____

Enclosure (by US Mail only)

NO. _____

THE STATE OF TEXAS

§ IN THE DISTRICT COURT

V.

§ _____ JUDICIAL DISTRICT

_____,

§ _____ COUNTY, TEXAS

TDCJ # _____

**REQUEST FOR APPOINTMENT OF COUNSEL
PURSUANT TO ARTICLE 64, CODE OF CRIMINAL PROCEDURE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Defendant _____, TDCJ No. _____, and requests appointment of counsel to assist Defendant in obtaining an order for DNA testing from the Court pursuant to Article 64.01(c), CODE OF CRIMINAL PROCEDURE. Defendant wishes to submit a motion pursuant to Chapter 64 requesting DNA testing and Defendant is indigent. A Declaration of Inability to Pay Cost is attached and incorporated hereto as Exhibit "1."

Respectfully submitted,

Name
Petitioner, Pro Se
TDCJ-ID #
Texas Department of Criminal Justice -
Institutional Division

_____ Unit

_____, Texas _____

NO. _____

THE STATE OF TEXAS

§ IN THE DISTRICT COURT

V.

§ _____ JUDICIAL DISTRICT

_____,
TDCJ # _____

§ _____ COUNTY, TEXAS

ORDER APPOINTING ATTORNEY

CAME ON this day for consideration, the Defendant's request for appointment of counsel to assist him in obtaining DNA testing pursuant to Article 64.01(c), CODE OF CRIMINAL PROCEDURE. The Court has reviewed the request and Declaration of Inability to Pay Cost in this matter and it is hereby

ORDERED that an attorney shall be appointed to represent Defendant pursuant to Article 64.01(c), CCP. Accordingly, the following attorney is hereby appointed and instructed to contact his/her client regarding this matter: _____; address

_____.

It is further ordered that a copy of this Order shall be sent to the Defendant by the Clerk of this Court.

JUDGE PRESIDING

EXHIBIT "1"
DECLARATION OF INABILITY TO PAY COST

(The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6 Chapter 132 of the Civil Practices and Remedies Code.)

Now respectfully comes _____, TDCJ # _____, and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$ _____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$ _____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$ _____.
- (8) I owe \$ _____ as restitution.
- (9) My monthly expenses are approximately \$ _____.

I, _____, TDCJ # _____, being presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct. Executed on this the _____ day of _____, 20____.

_____, TDCJ # _____

Date _____

_____ County District Clerk

_____, Texas _____

RE: _____
Cause No. _____

Dear Clerk:

Enclosed please find Movant's Motion for Appointment of Counsel, Order and Declaration of Inability to Pay Cost in the above styled and numbered cause. Please file this, and bring it to the attention of the Court.

Your assistance in this matter is greatly appreciated.

Sincerely,

Movant Pro Se
TDCJ # _____
_____ Unit

Address

cc: File

Enclosure

For faster service at no extra charge, order online at www.Texas.gov

OFFICE USE ONLY

Cert # _____

DOCUMENT CONTROL # _____

By _____



**EXPEDITED MAIL APPLICATION
FOR BIRTH AND DEATH RECORD**

OFFICE USE ONLY

Remit No. _____

By _____ **ZZ 708-153**

PLEASE PRINT. INCLUDE A PHOTOCOPY OF YOUR VALID PHOTO ID AND SWORN STATEMENT WHEN SENDING THE REQUEST.
Make check or money orders payable to: DSHS - Vital Statistics All funds are deposited directly to the Texas Comptroller of Public Accounts. For any search of the files where a record is not found, the searching fee is not refundable or transferable.

Birth Certificates			
Type	Cost X	# of copies=	Total
Certified Copy	\$22		
Heirloom-Flag	\$60		
Heirloom-Bassinet	\$60		
(optional) \$8 Lone Star OR \$19.95 USPS Express mail (\$4.95 Priority mail for overseas military address ONLY)			
Expedite fee (required)			\$5.00
Total (Check or money order payable to DSHS)			

Death Certificates			
Type	Cost X	# of copies=	Total
1 st Copy	\$20	1	\$20
Additional copies	\$3		
(optional) \$8 Lone Star OR \$19.95 USPS Express Mail (\$4.95 Priority mail for overseas military address ONLY)			
Expedite fee (required)			\$5.00
Total (Check or money order payable to DSHS)			

I wish to make a voluntary contribution of \$5.00 to promote healthy early childhood by supporting the Texas Home Visitation Program administered by the Office of Early Childhood Coordination of Health and Human Services.

BIRTH/DEATH RECORD INFORMATION

Full Name of Person on Record	First Name	Middle Name	Last Name
Date of Birth/Death	Month	Day	Year
Place of Birth/Death	City or Town	County	State
Full Name of Parent 1	First Name	Middle Name	Maiden Name/Last Name
Full Name of Parent 2	First Name	Middle Name	Maiden Name/Last Name

REQUESTOR INFORMATION

Requestor Name	Telephone #	Email Address
Full Mailing Address	Street Address	City State Zip
Relationship to person listed above	Purpose for obtaining this record:	

I authorize mailing to the address below. I have verified that the address below will receive my order.

Name of Person Receiving Copies, if Different from Requestor		
Mailing Address for Copies, if Different from Requestor		
City	State	Zip

WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR FOR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 2 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003)

Your Signature _____ Date of Application _____

APPLICATIONS WITHOUT SIGNATURE OF APPLICANT WILL NOT BE PROCESSED.

MAIL THIS APPLICATION, PAYMENT, SWORN STATEMENT AND A PHOTOCOPY OF YOUR VALID PHOTO ID TO:
 Texas Vital Records
 Department of State Health Services
 1100 W. 49th Street
 Austin, TX 78756

(APPLICATIONS WITHOUT PHOTO ID AND THE ATTACHED SWORN STATEMENT WILL NOT BE PROCESSED)

BLANK

This blank page is to ensure that notarized affidavit (VS-142.3(A)) does not print on the reverse side of the application (VS-142.3).

NOTARIZED PROOF OF IDENTIFICATION

PART I. ENTER NAME, DATE AND PLACE OF BIRTH/DEATH, AND NAMES OF PARENTS AS INFORMATION APPEARS ON BIRTH/DEATH CERTIFICATE			
FULL NAME OF PERSON ON RECORD		DATE OF BIRTH/DEATH	
PLACE OF BIRTH/DEATH (City or County)			SEX
FULL NAME OF PARENT 1		FULL NAME OF PARENT 2	

PART II. ENTER RELATIONSHIP TO PERSON ON RECORD AND THE TYPE OF ID USED.	
NAME AND RELATIONSHIP TO PERSON ON RECORD	TYPE AND NUMBER OF ID ACCEPTED WHEN NOTARIZED

AFFIDAVIT OF PERSONAL KNOWLEDGE

PART III. THIS SECTION MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC.	
STATE OF _____	
COUNTY OF _____	
Before me on this day appeared _____ (Name)	
now residing at _____ (Address) _____ (City) _____ (State)	
who is related to the person named on Part I as _____ (Relationship) and who on oath deposes and says that the contents of this affidavit are true and correct.	
	Signature _____
Sworn to and subscribed before me, this _____ day of _____, 20_____.	
	Signature of Notary Public
	Commission Expires
	Typed or Printed Name
	Street Address
	City, State and Zip

WARNING: IT IS A FELONY TO FALSIFY INFORMATION ON THIS DOCUMENT. THE PENALTY FOR KNOWINGLY MAKING A FALSE STATEMENT ON THIS FORM OR FOR SIGNING A FORM WHICH CONTAINS A FALSE STATEMENT IS 2 TO 10 YEARS IMPRISONMENT AND A FINE OF UP TO \$10,000. (HEALTH AND SAFETY CODE, CHAPTER 195, SEC. 195.003)

MAIL THIS SWORN STATEMENT, APPLICATION, PAYMENT, AND A PHOTOCOPY OF YOUR VALID PHOTO ID TO:

Texas Vital Records
 Department of State Health Services
 1100 W. 49th Street
 Austin, TX 78756

(APPLICATIONS WITHOUT THE SWORN STATEMENT AND PHOTO ID WILL NOT BE PROCESSED)

SCFO

THIS PAGE INTENTIONALLY LEFT BLANK

Date _____

CERTIFIED MAIL RETURN
RECEIPT REQUESTED
NO. _____

_____ County District Clerk

_____, Texas _____

RE: _____
CAUSE NO. _____

Dear District Clerk:

Enclosed herewith please find Respondent's Original Answer, Request for Appointment of an Attorney Ad Litem, Motion for Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Affidavit of Respondent's Testimony in the above styled and numbered cause. Please file these among the papers in this cause and bring to the attention of the Court. Please date stamp a copy of this letter and return it to me.

By copy of this letter a copy of same is being forwarded to Attorney for Petitioner.

Your assistance in this matter is greatly appreciated.

Sincerely,

Respondent
Pro Se

cc: File

«Opposing_Attorney_Name»
«Opposing_Attorney_Address»
«Opposing_Attorney_City», Texas «Opposing_Attorney_Zip»

Enclosure

SCFO REF 9.1

MOTION FOR ISSUANCE OF BENCH WARRANT OR IN THE
ALTERNATIVE, MOTION FOR CONTINUANCE

COMES NOW, «Inmate_Name», Respondent in the above entitled and numbered cause and moves this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas to have Respondent brought into the Courtroom of the «Court_Number» District Court of «County» County, Texas, for the purpose of a trial in the above cause and as grounds therefore presents the Court the following:

I.

Respondent, «Inmate_Name», is presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, as a result of the conviction for a felony offense.

II.

The record in the above entitled and numbered cause reflects Respondent's desire to contest Petitioner's Original Petition. Such suit is to determine the best interest of the «child_children», and to determine whether Respondent's parental rights with respect to said «child_children» are to be modified. Such determination cannot be fairly made without Respondent being at the hearing to testify on «his_her» own behalf and to assist counsel in the presentation of evidence, cross-examination of witnesses, and defense of this suit.

III.

Respondent desires to present testimony in «his_her» own behalf, especially concerning «his_her» desire to care, love, and provide for «his_her» natural «child_children». Respondent's

testimony will show that «he_she» believes it is in «his_her» «child_children»'s best interest that parental rights not be modified.

IV.

Respondent alleges that «he_she» is entitled to be present at any proceeding affecting the custody of «his_her» «child_children» as a matter of due process and equal protection of the law. Since Respondent is confined in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice and cannot attend of «his_her» own volition, the only method by which «he_she» can appear in Court to present testimony concerning the future of «his_her» natural «child_children» and defend «his_her» rights is for this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas, to cause the Respondent to be brought into the «Court_Number» District Court of «County» County, Texas, at such time this cause is set for hearing on the merits.

V.

Should this Court deem that a bench warrant should not be issued, the Respondent requests that this Court grant a continuance of this action until such time as the Respondent is released from the penitentiary and is able to appear in Court and defend this suit on «his_her» own volition. This Alternative Motion for Continuance is not made for the purpose of delay, but so that justice will be done, and will not prejudice the rights of the parties.

VI.

If the Court denies Respondent's motion for bench warrant, and also denies the motion for continuance, Respondent requests the Court to allow participation in the hearing by means of telephone conference, video conference, or other means of participation from the prison unit.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent prays that an Order be issued directing the Sheriff of «County» County, Texas, to cause Respondent, «Inmate_Name», TDCJ #«Inmate_Number» an inmate at the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, to be brought before this Honorable Court at such time of the trial or any hearing in the aforementioned proceedings.

Respondent requests the Court to appoint an attorney ad litem to represent Respondent in this lawsuit, and upon final hearing Respondent requests the Court to deny all relief requested by Petitioners herein.

Respectfully submitted,

«Inmate_Name»
Respondent, Pro Se
TDCJ # «Inmate_Number»
Texas Department of Criminal Justice
«Inmate_Unit» Unit
«Unit_Address»
«Unit_City», Texas «Unit_Zip»

CERTIFICATE OF SERVICE

I, «Inmate_Name», Respondent, do hereby certify that a true and correct copy of the above and foregoing Original Answer, Request for Appointment of an Attorney Ad Litem and Motion For Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Affidavit of Respondent's Testimony has been forwarded by United States Mail, postage prepaid, first class, to Attorney for Petitioner, «Opposing_Attorney_Name», «Opposing_Attorney_Address», «Opposing_Attorney_City», Texas «Opposing_Attorney_Zip», on this the ____ day of _____, 20_____.

«Inmate_Name»
Respondent, Pro Se

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF _____

_____ COUNTY, TEXAS

ORDER

On the _____ day of _____, 20____, the Court heard the Motion of Respondent, «Inmate_Name», TDCJ #«Inmate_Number», for a warrant from the Bench to procure Respondent's presence for trial on the merits in the above entitled and numbered cause; the Court is of the opinion that such motion should be GRANTED.

Signed and entered on this the _____ day of _____, 20_____.

JUDGE PRESIDING

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF _____

_____ COUNTY, TEXAS

ORDER

On this _____ day of _____, 20____, BE IT REMEMBERED that Respondent's Request for Appointment of an Attorney Ad Litem to Represent Respondent, together with Respondent's Declaration of Inability to Pay Cost, was presented and heard by the Court, and the Court after consideration of the same, is of the opinion that Respondent, «Inmate_Name», is an "indigent parent". It is, therefore, ORDERED, ADJUDGED, AND DECREED, by the Court that be appointed Attorney Ad Litem to represent Respondent's interests pursuant to the Texas Family Code.

JUDGE PRESIDING

DECLARATION OF INABILITY TO PAY COST

This Declaration is made pursuant to the Texas Civil Practice and Remedies Code, Section 132.001.

Now respectfully comes «Inmate_Name», TDCJ #«Inmate_Number», and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name»
TDCJ # «Inmate_Number»

CAUSE NO. _____

(CASE STYLE)

§
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§

IN THE _____ DISTRICT COURT

OF _____

_____ COUNTY, TEXAS

AFFIDAVIT OF RESPONDENT'S TESTIMONY

The testimony Respondent, «Inmate_Name», would give at the hearing on this cause would be as follows:

1. Respondent has never intentionally exposed the «child_children» to any influence that would endanger the physical or emotional well-being of «his_her» «child_children».
2. Respondent loves and cares for «his_her» «child_children» and wishes to be involved in the care of «his_her» «child_children» in the future and assist in the upbringing of «his_her» «child_children».

«Inmate_Name», Respondent

UNSWORN DECLARATION

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas declare under penalty of perjury that I am the Applicant in the above and foregoing Petition, I have read said petition and the factual allegations of the same are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name», Respondent

(Date)

«District_Clerk_Name»
«County» County District Clerk
«Clerk_Address»
«Clerk_City», TX «Clerk_Zip»

RE: «Re»
Cause No. «Cause_No_»

Dear «Mr_Ms_Clerk_Last_Name»:

Enclosed herewith please find the original of an Original Answer and Motion for Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Order in the above styled and numbered cause. Please file these among the papers in this cause and bring to the attention of the Court.

By copy of this letter, a copy of same is being forwarded to Attorney for Petitioner.

Your assistance in this matter is greatly appreciated.

Sincerely,

«Inmate_Name»
TDCJ-ID #«Inmate_Number»

Enclosures

cc: File

«Opposing_Attorney_Name»
«Opposing_Attorney_Address»
«Opposing_Attorney_City», TX «Opposing_Attorney_Zip»

CAUSE NO. «Cause_No_»

(STYLE)

§ IN THE DISTRICT COURT OF
§
§ «COUNTY» COUNTY, TEXAS
§
§ «COURT_NUMBER» JUDICIAL DISTRICT

ORIGINAL ANSWER AND MOTION FOR ISSUANCE OF BENCH WARRANT

TO THE HONORABLE JUDGE OF SAID COURT:

ORIGINAL ANSWER

Respondent, «Inmate_Name», generally denies each and every one of the allegations contained in the Original Petition heretofore filed in this cause and demands strict proof thereof by clear and convincing evidence.

MOTION FOR ISSUANCE OF BENCH WARRANT

COMES NOW, «Inmate_Name», Respondent in the above entitled and numbered cause and moves this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas to have Respondent brought into the Courtroom of the «Court_Number» District Court of «County» County, Texas, for the purpose of a hearing in the above cause and as grounds therefore presents the Court the following:

I.

Respondent, «Inmate_Name», is presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, as a result of the conviction for a felony offense.

II.

This suit cannot be fairly made without Respondent being at the hearing to testify in «his_her» own behalf and to present evidence, cross-examine witnesses, and generally defend «his_her» interests in this suit.

III.

If the Court denies Respondent's Motion for Issuance of Bench Warrant, Respondent asks the Court to allow participation in all proceedings in this case by means of a teleconference or videoconference from the unit where Respondent is incarcerated.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent prays that an Order be issued directing the Sheriff of «County» County, Texas, to cause Respondent, «Inmate_Name», TDCJ # «Inmate_Number» an inmate at the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, to be brought before this Honorable Court at such time of the trial or any hearing in the aforementioned proceedings. In the alternative, Respondent prays the Court order teleconference or videoconference participation.

Respectfully submitted,

«Inmate_Name»
Respondent, Pro Se
TDCJ-ID #«Inmate_Number»
Texas Department of Criminal Justice -
Institutional Division
«Inmate_Unit» Unit
«Unit_Address»
«Unit_City», TX«Unit_Zip»

CERTIFICATE OF SERVICE

I, «Inmate_Name», Respondent Pro Se, do hereby certify that a true and correct copy of the above and foregoing Original Answer and Motion For Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Order have been forwarded by United States Mail, postage prepaid, first class, to Attorney for Petitioner, «Opposing_Attorney_Name», «Opposing_Attorney_Address», «Opposing_Attorney_City», Texas «Opposing_Attorney_Zip», on this the ____ day of _____, 20_____.

«Inmate_Name»
Respondent, Pro Se

CAUSE NO. «Cause_No_»

(STYLE)

§ IN THE DISTRICT COURT OF
§
§ «COUNTY» COUNTY, TEXAS
§
§ «COURT_NO» JUDICIAL DISTRICT

ORDER

On the _____ day of _____, 20____, the Court heard the Motion of Respondent, «Inmate_Name», TDCJ #«Inmate_Number», for a warrant from the bench to procure Respondent's presence for trial on the merits in the above entitled and numbered cause; the Court is of the opinion that such motion should be GRANTED DENIED.

In the alternative, Respondent asks to allow participation in the proceedings by means of TELECONFERENCE OR VIDEOCONFERENCE.

Signed and entered on this the _____ day of _____, 20_____.

JUDGE PRESIDING

DECLARATION OF INABILITY TO PAY COST

(The following Declaration is made pursuant to Section 132.001 of the Civil Practices and Remedies Code.)

Now respectfully comes «Inmate_Name», TDCJ #«Inmate_Number», and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct. Executed on this the _____ day of _____, 20____.

«Inmate_Name»
TDCJ#«Inmate_Number»

Date _____

CERTIFIED MAIL RETURN
RECEIPT REQUESTED NO. _____

«District_Clerk_Name»
«County» County District Clerk
«Clerk_Address»
«Clerk_City», TX «Clerk_Zip»

RE: «Re»
Cause No. «Cause_No_»

Dear «Mr_Mrs_Clerk_Last_Name»:

Enclosed herewith please find the original of an Original Answer and Motion for Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Unsworn Declaration of Respondent's Testimony in the above styled and numbered cause. Please file these among the papers in this cause and bring to the attention of the Court.

By copy of this letter, a copy of same is being forwarded to Attorney for Petitioner.

Your assistance in this matter is greatly appreciated.

Sincerely,

«Inmate_Name»
Respondent Pro Se

Enclosures

c: File

«Opposing_Attorney_Name»
«Opposing_Attorney_Address»
«Opposing_Attorney_City», TX «Opposing_Attorney_Zip»

CAUSE NO. «CAUSE_NO_»

(STYLE) § IN THE DISTRICT COURT OF
§
§ «COUNTY» COUNTY, TEXAS
§
§ «COURT NO» JUDICIAL DISTRICT

ORIGINAL ANSWER AND MOTION FOR ISSUANCE OF BENCH WARRANT

TO THE HONORABLE JUDGE OF SAID COURT:

GENERAL DENIAL

Respondent, «Inmate_Name», generally denies each and every one of the allegations contained in the Original Petition heretofore filed in this cause and demands strict proof thereof by clear and convincing evidence.

MOTION FOR ISSUANCE OF BENCH WARRANT

COMES NOW, «Inmate_Name», Respondent in the above entitled and numbered cause and moves this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas to have Respondent brought into the Courtroom of the «Court_Number» District Court of «County» County, Texas, for the purpose of a hearing in the above cause and as grounds therefore presents the Court the following:

I.

Respondent, «Inmate_Name», is presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, as a result of the conviction for a felony offense.

II.

This suit cannot be fairly made without Respondent being at the hearing to testify in «his_her» own behalf and to assist counsel in the presentation of evidence, cross-examination of witnesses, and defense of this suit.

III.

If the Court denies Respondent's Motion for Issuance of Bench Warrant, Respondent asks the Court to allow participation in all proceedings in this case by means of a teleconference or videoconference from the unit where Respondent is incarcerated.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent prays that an Order be issued directing the Sheriff of «County» County, Texas, to cause Respondent, «Inmate_Name», TDCJ # «Inmate_Number» an inmate at the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, to be brought before this Honorable Court at such time of the trial or any hearing in the aforementioned proceedings. In the alternative, Respondent prays the Court order teleconference or videoconference participation.

Respectfully Submitted,

«Inmate_Name» Respondent, Pro Se
TDCJ #«Inmate_Number»
Texas Department of Criminal Justice
«Inmate_Unit» Unit
«Unit_Address»
«Unit_City», TX «Unit_Zip»

CERTIFICATE OF SERVICE

I, do hereby certify that a true and correct copy of the above and foregoing Original Answer and Motion for Issuance of Bench Warrant, Declaration of Inability to Pay Cost, and Unsworn Declaration of Respondent's Testimony have been forwarded by United States Mail, postage prepaid, first class, to Attorney for Petitioner, «Opposing_Attorney_Name», «Opposing_Attorney_Address», «Opposing_Attorney_City», TX «Opposing_Attorney_Zip», on this the ____ day of _____, 20_____.

«Inmate_Name»
Respondent Pro Se

CAUSE NO. «CAUSE_NO_»

(STYLE)

§ IN THE DISTRICT COURT OF
§
§ «COUNTY» COUNTY, TEXAS
§
§ «COURT_NO» JUDICIAL DISTRICT

ORDER

On the _____ day of _____, 20____, the Court heard the Motion of Respondent, «Inmate_Name», TDCJ #«Inmate_Number», for a warrant from the Bench to procure Respondent's presence for trial on the merits in the above entitled and numbered cause; the Court is of the opinion that such motion should be GRANTED or DENIED.

In the alternative, Respondent asks the Court to order that participation in the proceedings be accomplished by TELECONFERENCE or VIDEOCONFERENCE.

Signed and entered on this the _____ day of _____, 20_____.

JUDGE PRESIDING

DECLARATION OF INABILITY TO PAY COST

(The following Declaration is made pursuant to Section 132.001 of the Texas Civil Practices and Remedies Code.)

Now respectfully comes «Inmate_Name», TDCJ #«Inmate_Number», and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name»
TDCJ # «Inmate_Number»

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF _____

_____ COUNTY, TEXAS

UNSWORN DECLARATION OF RESPONDENT'S TESTIMONY

The testimony Respondent, «Inmate_Name», would give at the hearing on this cause would be as follows:

1. Affiant is the Respondent in the above-entitled and numbered cause.
2. The Petitioner in the above entitled and numbered cause is my «husband-wife».
3. This affidavit is made for the purpose of stating affiant's opposition to the divorce and requests this court to order counseling.
4. In the event a divorce is granted, this affidavit is made for the purpose of petitioning this court to grant Respondent joint managing conservatorship.

«Inmate_Name», Respondent

UNSWORN DECLARATION

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas declare under penalty of perjury that I am the Applicant in the above and foregoing Petition, I have read said petition and the factual allegations of the same are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name», Respondent

Date _____

CERTIFIED MAIL RETURN
RECEIPT REQUESTED
NO. _____

«District_Clerk_Name»
«County» County District Clerk
«Clerk_Address»
«Clerk_City», Texas «Clerk_Zip»

RE: «RE»
CAUSE NO. «CAUSE_NO_»

Dear «Mr_Ms_Clerk_Last_Name»:

Enclosed herewith please find Respondent's Original Answer, Denial of Paternity, Request for Appointment of an Attorney Ad Litem, Motion for Issuance of Bench Warrant (if applicable), Declaration of Inability to Pay Cost, and Unsworn Declaration of Respondent's Testimony in the above styled and numbered cause. Please file these among the papers in this cause and bring to the attention of the Court. Please date stamp a copy of this letter and return it to me.

By copy of this letter a copy of the same is being forwarded to Attorney for Petitioner.

Your assistance in this matter is greatly appreciated.

Sincerely,

«Inmate_Name»
Respondent
Pro Se

cc: File
«Opposing_Attorney_Name»
«Opposing_Attorney_Address»
«Opposing_Attorney_City», Texas «Opposing_Attorney_Zip»

Enclosure

SCFO REF 9.4

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

**ORIGINAL ANSWER, DENIAL OF PATERNITY AND REQUEST FOR
APPOINTMENT OF ATTORNEY AD LITEM**

TO THE HONORABLE JUDGE OF SAID COURT:

«Inmate_Name», hereafter referred to as Respondent, files this Original Answer, Denial of Paternity, and Request for Appointment of Attorney Ad Litem.

I. GENERAL DENIAL

Respondent, generally denies each and every one of the allegations contained in the Original Petition heretofore filed in this cause and demands strict proof thereof by clear and convincing evidence.

II. DENIAL OF PATERNITY

Respondent, specifically denies paternity of the children contained in the Original Petition heretofore filed in this case and demands strict proof thereof by clear and convincing evidence. Further, Respondent requests that the Court order genetic testing. Furthermore, Respondent requests that the Court order that genetic testing be accomplished at the Texas Department of Criminal Justice's unit where Respondent currently resides.

**III. REQUEST FOR APPOINTMENT OF AN
ATTORNEY AD LITEM TO REPRESENT RESPONDENT**

Respondent requests the court to appoint an attorney ad litem to represent Respondent pursuant to the Texas Family Code, §107.013. Respondent is an indigent parent within the meaning of the Texas Family Code, §107.013. Respondent does not have sufficient funds or assets to hire an attorney and is unable to secure the services of an attorney to represent him.

IV. PRAYER

Respondent prays this Court deny all relief requested in the Petitioner's Original Petition.

Respondent prays this Court appoint an Attorney Ad Litem to represent Respondent.

Respondent prays this Court order genetic testing.

Respondent prays this Court order genetic testing be accomplished at the Texas Department of Criminal Justice's unit where Respondent currently resides.

Respondent prays this Court order Respondent to participate in the hearing by means of telephonic conference, video conference, or other means of participation from the unit.

Respondent prays for all other relief to which «he_she» may be entitled at law or equity.

Respectfully submitted,

«Inmate_Name»
Respondent, Pro Se
TDCJ # «Inmate_Number»
Texas Department of Criminal Justice
«Inmate_Unit» Unit
«Unit_Address»
«Unit_City», Texas «Unit_Zip»

CERTIFICATE OF SERVICE

I, «Inmate_Name», Respondent, do hereby certify that a true and correct copy of the above and foregoing Original Answer, Denial of Paternity, Request for Appointment of an Attorney Ad Litem, Declaration of Inability to Pay Cost, and Unsworn Declaration of Respondent's Testimony has been forwarded by United States Mail, postage prepaid, first class, to Attorney for Petitioner, «Opposing_Attorney_Name», «Opposing_Attorney_Address», «Opposing_Attorney_City», Texas «Opposing_Attorney_Zip», on this the ____ day of _____, 20_____.

«Inmate_Name»
Respondent, Pro Se

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

ORDER

On this _____ day of _____, 20____, BE IT REMEMBERED that Respondent's Request for Appointment of an Attorney Ad Litem to Represent Respondent and Respondent's Declaration of Indigency were presented and heard by the Court, and the Court after consideration of the same, is of the opinion that Respondent, «Inmate_Name», is an "indigent parent".

It is, therefore, ORDERED, ADJUDGED, AND DECREED, by the Court that _____ be appointed Attorney Ad Litem to represent Respondent in order to protect Respondent's interests pursuant to Texas Family Code §107.013.

JUDGE PRESIDING

DECLARATION OF INABILITY TO PAY COST

(The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6 Chapter 132 of the Civil Practices and Remedies Code.)

Now respectfully comes «Inmate_Name», TDCJ #«Inmate_Number», and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank accounts and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, «Inmate_Name», TDCJ # «Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name»
TDCJ # «Inmate_Number»

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

UNSWORN DECLARATION OF RESPONDENT'S TESTIMONY

The testimony Respondent, «Inmate_Name», would give at the hearing on this cause would be as follows:

1. Respondent has never intentionally exposed the «child_children» to any influence that would endanger the physical or emotional well-being of «his_her» «child_children».
2. Respondent loves and cares for «his_her» «child_children» and wishes to be involved in the care of «his_her» «child_children» in the future and assist in the upbringing of «his_her» «child_children».

«Inmate_Name», Respondent

UNSWORN DECLARATION

I, «Inmate_Name», TDCJ #«Inmate_Number», being presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_County» County, Texas declare under penalty of perjury that I am the Applicant in the above and foregoing Petition, I have read said petition and the factual allegations of the same are true and correct.

Executed on this the _____ day of _____, 20_____.

«Inmate_Name», Respondent, Pro Se

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT
OF
_____ COUNTY, TEXAS

MOTION FOR ISSUANCE OF BENCH WARRANT
OR IN THE ALTERNATIVE, MOTION FOR CONTINUANCE

COMES NOW, «Inmate_Name», Respondent in the above entitled and numbered cause and moves this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas to have Respondent brought into the Courtroom of the «Court_Number» District Court of «County» County, Texas, for the purpose of a trial in the above cause and as grounds therefore presents the Court the following:

I.

Respondent, «Inmate_Name», is presently incarcerated in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice-Correctional Institutions Division in «Unit_City», Texas, as a result of the conviction for a felony offense.

II.

The record in the above entitled and numbered cause reflects Respondent's desire to contest Petitioner's Original Petition. Such suit is to determine the best interest of the «child_children», and to determine whether Respondent's parental rights with respect to said «child_children» are to be modified. Such determination cannot be fairly made without Respondent being at the hearing to testify on «his_her» own behalf and to assist counsel in the presentation of evidence, cross-examination of witnesses, and defense of this suit.

III.

Respondent desires to present testimony in «his_her» own behalf, especially concerning «his_her» desire to care, love, and provide for «his_her» natural «child_children». Respondent's testimony will show that «he_she» believes it is in «his_her» «child_children»'s best interest that parental rights not be modified.

IV.

Respondent alleges that «he_she» is entitled to be present at any proceeding affecting the custody of «his_her» «child_children» as a matter of due process and equal protection of the law. See Stanley v. Illinois, 405 U.S. 645 (1972); In the Interest of G.M., 596 S.W.2d 846 (Tex. 1980) and cases cited therein. Since Respondent is confined in the «Inmate_Unit» Unit of the Texas Department of Criminal Justice and cannot attend of «his_her» own volition, «he_she» cannot appear in Court to present testimony concerning the future of «his_her» natural «child_children» and defend «his_her» rights. Respondent requests this Honorable Court to issue an Order directing the Sheriff of «County» County, Texas, to cause the Respondent to be brought into the «Court_Number» District Court of «County» County, Texas, at such time this cause is set for hearing on the merits.

V.

Should this Court deem that a bench warrant should not be issued, the Respondent requests that this Court grant a continuance of this action until such time as the Respondent is released from the penitentiary and is able to appear in Court and defend this suit on «his_her» own volition.

VI.

In the alternative, Respondent asks the Court to order that participation in the proceedings be accomplished by teleconference or video conference.

VI.

This Alternative Motion for Continuance is not made for the purpose of delay, but so that justice will be done, and will not prejudice the rights of the parties.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Respondent prays that an Order be issued directing the Sheriff of «County» County, Texas, to cause Respondent, «Inmate_Name», TDCJ # «Inmate_Number» an inmate at the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, to be brought before this Honorable Court at such time of the trial or any hearing in the aforementioned proceedings.

«Inmate_Name»
Respondent, Pro Se

CERTIFICATE OF SERVICE

I, «Inmate_Name», Respondent, do hereby certify that a true and correct copy of the above and foregoing Motion For Issuance of Bench Warrant has been forwarded by United States Mail, postage prepaid, first class, to Attorney for Petitioner, «Opposing_Attorney_Name», «Opposing_Attorney_Address», «Opposing_Attorney_City», Texas «Opposing_Attorney_Zip», on this the ____ day of _____, 20_____.

«Inmate_Name»
Respondent, Pro Se

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT
OF
_____ COUNTY, TEXAS

ORDER

On the _____ day of _____, 20____, the Court heard the Motion of Respondent, «Inmate_Name», TDCJ #«Inmate_Number», for a warrant from the Bench to procure Respondent's presence for trial on the merits in the above entitled and numbered cause; the Court is of the opinion that such motion should be GRANTED.

IT IS ORDERED that the Sheriff of «County» County, Texas, cause Respondent, «Inmate_Name», TDCJ # «Inmate_Number» an inmate at the «Inmate_Unit» Unit of the Texas Department of Criminal Justice in «Unit_City», Texas, to be brought before this Honorable Court at such time of the trial or any hearing in the aforementioned proceedings.

Signed and entered on this the _____ day of _____, 20_____.

JUDGE PRESIDING

Date _____

«clerk»
District Clerk
«clerk_address»
«clerk_city», «clerk_state» «clerk_zip»

RE: «RE»
CAUSE NO. «CAUSE_NO»

Dear Clerk:

Enclosed please find Respondent's Original Answer and Declaration of Inability to Pay Costs in the above styled and numbered cause. Please file this, and bring it to the attention of the Court.

By copy of this letter, a copy of same is being forwarded to the Attorney for Petitioner.

Your assistance in this matter is greatly appreciated.

Sincerely,

«inmate_name»
Respondent, Pro Se

cc: File
«petitioner_attorney_name», Attorney for Petitioner
«attorney_address»
«attorney_city», «attorney_state» «attorney_zip»

Enclosure

CAUSE NO. _____

(CASE STYLE)

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IN THE _____ DISTRICT COURT

OF

_____ COUNTY, TEXAS

RESPONDENT'S ORIGINAL ANSWER

TO THE HONORABLE JUDGE OF SAID COURT:

Respondent, «inmate_name» files this Original Answer.

I. GENERAL DENIAL

Respondent enters a general denial, and demands strict proof by clear and convincing evidence of all the allegations made in the Original Petition heretofore filed in this cause.

II. ADMISSION OF PATERNITY

Respondent admits that he is the father of «child_children».

III. INCARCERATION AND INDIGENCY

Respondent is willing to pay support but will be unable to begin until after he has been released from the Texas Department of Criminal Justice (TDCJ). Respondent also seeks visitation.

IV. NAME

Respondent requests the Court order the child's last name be that of Respondent.

PRAYER

Respondent prays that Decree of Paternity be entered naming Respondent as father with the child's last name the same as the Respondent's. Respondent prays for visitation with the child and that support be deferred until after Respondent's release from TDCJ. Respondent prays that Respondent be GRANTED all relief requested in this Original Answer and that Petitioner take nothing other than paternity and support requested by Respondent.

Respondent prays for general relief.

Respectfully submitted,

«inmate_name», Respondent Pro Se
TDCJ # «tdcj_id»
Texas Department of Criminal Justice
«unit»
«unit_address»
«unit_city», «unit_state» «unit_zip»

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Respondent's Original Answer and Declaration of Inability to Pay Costs has been forwarded by United States Mail, postage prepaid, to «petitioner_attorney_name», «attorney_address», «attorney_city», «attorney_state» «attorney_zip», on this the _____ day of _____, 20_____.

«inmate_name», Respondent Pro Se

DECLARATION OF INABILITY TO PAY COST

(The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6 Chapter 132 of the Civil Practices and Remedies Code.) Now respectfully comes «inmate_name», TDCJ # «tdcj_id», and declares that I am unable to pay the court costs in this civil action and requests leave of the Court to proceed in forma pauperis in this accompanying civil action and would show the Court the following:

- (1) I am presently incarcerated in the «unit» Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank account and I receive no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, «inmate_name», TDCJ # «tdcj_id», being presently incarcerated in the «unit» Unit of the Texas Department of Criminal Justice in «unit_county» County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct. Executed on this the _____ day of _____, 20_____.

«inmate_name», TDCJ # «tdcj_id»



CHILD SUPPORT

*Information for Incarcerated Parents and
Parents Returning to the Community*

CHILD SUPPORT ■ ESTABLISHING PATERNITY ■ VISITATION ■ DNA TESTING ■ RESOURCES

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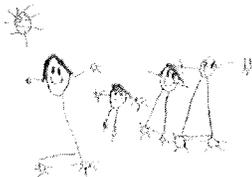
Definitions page 7

Inquiry Form back page

THE TEXAS OFFICE OF THE ATTORNEY GENERAL (OAG)

believes that
children need
love and support
from both
parents.

While you are incarcerated,
do everything you can to show your children
you love them, care about them
and support them.



This booklet answers common questions that parents have about how to handle their child support case while they are incarcerated and what to do when they are released. The booklet also includes definitions of child support and legal terms. Terms in **boldface type** are defined in the definitions section starting on page 7.

The OAG welcomes questions from parents about their Texas child support cases. Please review the following two lists to see what information and services we can and cannot provide while you are incarcerated.

THE OAG CAN PROVIDE:

1. Basic information about your **child support** case.
2. The terms of the **order** (such as monthly child support payments and total arrears owed).
3. A review of your case to see if you are eligible for a **child support modification** (upon your request).
4. The address and phone number of the child support office handling your case.
5. Information on how to establish **paternity** for your child if you weren't married to the other parent when the child was born.
6. The state of Texas Child Support Guidelines (how the child support amount is calculated by state law).
7. In some cases, we may be able to forward one letter for your child to the **custodial parent**, if you do not know the custodial parent's address, and you have an open child support case. The custodial parent will be given whatever contact information you include in the letter.

THE OAG CANNOT:

1. Change custody or enforce visitation.
2. File a Termination of Parental Rights petition.
3. Give you the address of your children or the other parent.
4. Perform DNA testing if you signed an Acknowledgment of Paternity (AOP), or if there is an existing child support order.
5. Answer questions other than child support inquiries.
6. Obtain information from the court if you do not have a case with the OAG.

7. Transport you to court for a hearing or request a bench warrant on your behalf.
8. Lift a bench warrant.
9. Stop the interest on your arrears.
10. Provide legal advice or an attorney.

FREQUENTLY ASKED QUESTIONS ABOUT PATERNITY

What does paternity mean?

Paternity means legal determination of fatherhood.

paternity by signing an Acknowledgment of Paternity (AOP). An AOP establishes the father's legal relationship with the child when it is filed with the Texas Vital Statistics Unit (VSU).

How does a father's name get on his child's birth certificate?

Once paternity is established, the father's name can go on the birth certificate. If an AOP is signed at the hospital when a child is born, the father's name is automatically added to the birth certificate. If paternity is established after leaving the hospital, either through a court order or by signing an AOP, the Texas VSU has a process to request that the father's name be added to the birth certificate.

What if the incarcerated parent wants to sign the AOP?

If the incarcerated parent and the other parent both agree that they want to sign an AOP, the parent who is not incarcerated can contact staff at the local child support office, or call (866) 255-2006.

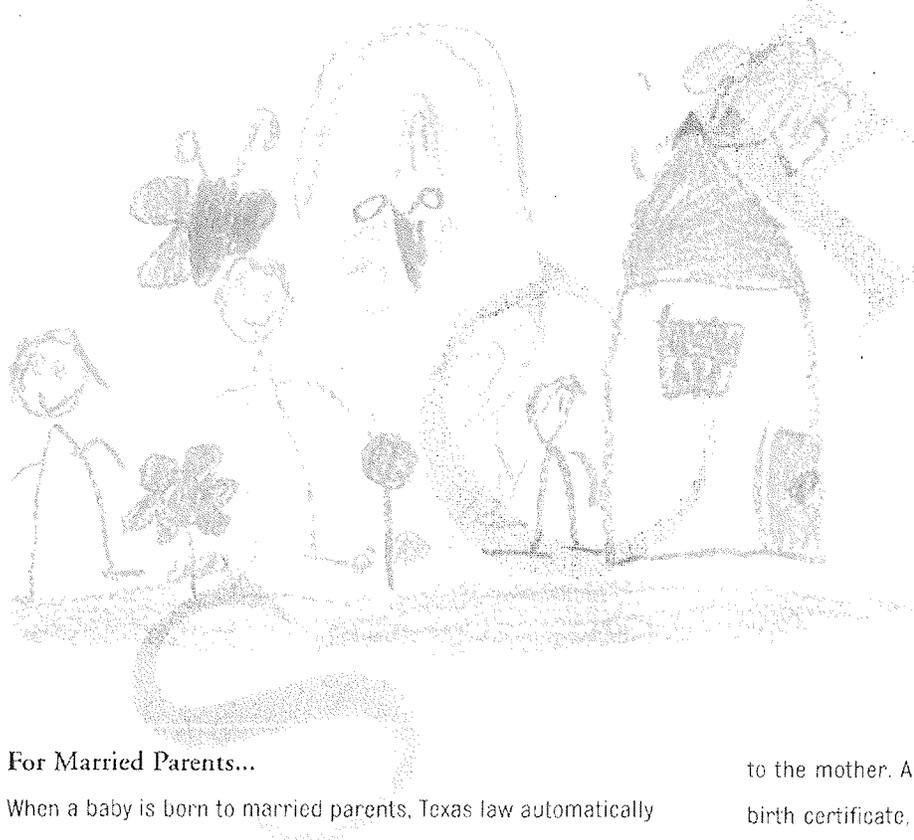
What are the legal benefits of establishing paternity?

Establishing paternity has many benefits for children and parents. The most important benefit for children is knowing that they have a father who wants to be in their life. Once paternity is established, the **legal father** has all the parental rights and responsibilities of a father who was married

to the mother. Also, the legal father may be listed on the child's birth certificate, giving the child a sense of identity. Establishing paternity also gives children, if eligible, the opportunity to receive Social Security, military and health insurance benefits from both the mother and the father.

How do you change the child's last name to the father's last name?

If paternity is established for a very young child through the completion and filing of an AOP, a name change may be possible through a process with the VSU. If paternity is being established through the court, parents can ask the court to change a child's



For Married Parents...

When a baby is born to married parents, Texas law automatically recognizes the husband as the father. Married couples do not do anything to establish paternity.

For Unmarried Parents...

When a baby is born to parents who are not married to each other, Texas law does NOT automatically recognize the biological father as a legal parent. Biological fathers must establish paternity to become legal parents and gain legal rights to their children.

How can the paternity of a child be established?

When the mother and father agree, they can voluntarily establish

last name to the legal father's last name when the paternity order is finalized. Otherwise, parents may submit a separate petition (request) to the court to change the child's name.

What if I change my mind after I sign the AOP?

It can be very difficult for an incarcerated parent to rescind or challenge an AOP.

Depending on the situation, a person may be able to follow a very specific and time-sensitive process to **rescind** (take back) the AOP or challenge the AOP in court. If you have been recently released and wish to find out more about how to rescind or challenge an AOP, visit texaslawhelp.org, click [Families and Kids] and then click [Paternity].

What if I'm not sure who is the biological father of the child?

If either parent has a doubt about who is the child's biological father, neither should sign an AOP. Parents should get a genetic test to confirm who is the biological father before signing an AOP. Once parents get the results of the genetic test, they may then complete an AOP or go to court to establish the biological father as the legal father of the child.

In many instances, if paternity has not already been established, genetic testing may be provided at no cost by opening a child support case with the Office of the Attorney General. The OAG will not provide genetic testing to parents who have already established paternity through a court order or by completing an AOP. Parents who can access genetic testing through an accredited private lab or over-the-counter kit from a pharmacy may be able to identify the biological father without opening a child support case.

FREQUENTLY ASKED QUESTIONS ABOUT CHILD SUPPORT

Can I open a case with the Office of the Attorney General?

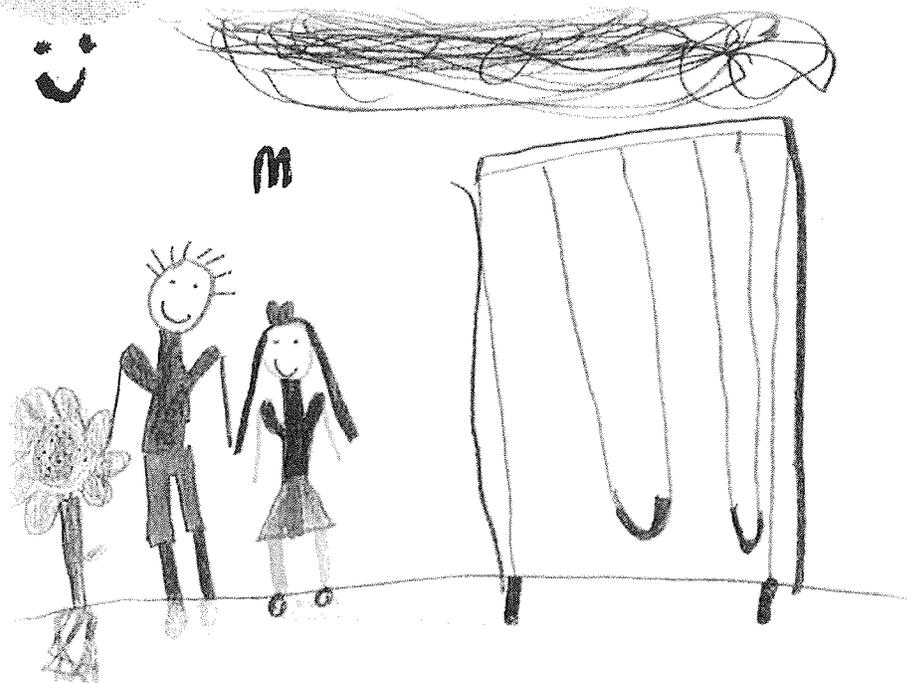
The OAG accepts applications from mothers, fathers and other individuals who request services. OAG attorneys represent the state of Texas in providing child support services and do not represent either parent in the case.

We think of ourselves as still being together as a couple, so why do I have a child support case?

A child support case was opened because the other parent and your children do not live with you. If the custodial parent (CP) applies for Temporary Assistance for Needy Families (TANF) or Medicaid, the state may proceed with a child support case even when the CP does not want child support.

What should I do if I have a child support case when I enter prison?

If you have a child support case, provide the office that is handling your case with your current address. By doing this, you will receive monthly updates that show how much you have paid and how much you owe in past-due support. If you want to try to lower your monthly child support payment, send in the form on page 9 of this booklet, or contact your local child support office and ask for a **review and adjustment packet**.



Remember: If you are able to send in all or some of your child support payments, send them through the State Disbursement Unit. Do not send child support payments directly to the other parent.

If I am in prison, I cannot work. Why doesn't my child support order change automatically?

The OAG cannot automatically change your child support; only the court that has jurisdiction in your case can change the amount of child support you are required to pay. The court will consider changing the child support amount after the correct legal papers are filed. The court also must allow the other parent to present evidence that can affect the court decision.

How can my child support order be changed?

If you want the court to change your child support order while you are in prison, legal papers must be filed in court. One way to see if the court will change your order is by completing the OAG's Incarcerated Noncustodial Parent Affidavit of Income/Assets form and returning it to our office. You may be asked to provide financial information and a notarized statement that can be given to the court for evidence. The completed forms do not guarantee that your child support will change, but they will help the court make a decision. You also can hire a private attorney to file papers with the court.



Remember that the amount you owe doesn't change until the court makes a ruling. Also, interest is added to child support

that goes unpaid while you are in prison. If you are able to pay any child support while you are incarcerated, it will help you and your child.

What happens to my child support payments while I'm in prison?

If you are the custodial parent and you do not contact the OAG, payments will continue to be sent through the payment method you selected: by direct deposit to a bank account or debit card, or by mail to the address previously provided. The OAG will continue to send your child support payments to you unless a **court order** redirects them to another person. For example, the court may order that payments go to the person with physical custody of your children while you are incarcerated.

While I'm in prison, can the child support I receive go to the person who is taking care of my children? If so, what should I do?

Yes, your child support can go to the person caring for your children. There are two ways to redirect child support to a child's caregiver. One way is by completing an "Authorization for Release of Information and Payment" and returning it to the OAG. Include the name of the person who is to receive the payments.

A second way to redirect payments is for the person with physical custody of the children to apply for child support services. Then, the OAG will seek a child support order to redirect the child support payments to that person. Caregivers must provide proof that the children live with them before the OAG can file a legal motion to redirect child support. Examples of proof include children's school or daycare records, or an affidavit of possession.

Where can I get help with my child support or information about my child support case?

If you are incarcerated, the law library is a good place to start. The law librarian can give

you the "Child Support Inquiry Form for Incarcerated Parents." **All requests for information about child support or your child**

support case must be made on this form. Please allow 60-90 days for a response.

FREQUENTLY ASKED QUESTIONS ABOUT CUSTODY AND VISITATION

Does the OAG handle custody and visitation problems?

The Office of the Attorney General is not authorized to handle custody or visitation disputes. After incarceration, the Access and Visitation Hotline can provide parenting time (visitation) resources that may help reunite and resume parenting time with your children. The hotline number is (866) 292-4636. The hotline is answered in English and Spanish, Monday–Friday, 1–7 p.m.

Are fathers treated differently from mothers in child support matters?

No. Texas laws about support, custody and visitation do not mention the parent's gender. Texas law focuses on the best interest of the child.

What should I do if I believe my child is being abused?

Call the Department of Family and Protective Services at (800) 252-5400. If you do not have access to a phone, ask someone else to make the call for you.

FREQUENTLY ASKED QUESTIONS UPON RELEASE FROM INCARCERATION

Most people need time to get on their feet after leaving prison. The OAG may be able to temporarily delay certain enforcement actions when parents provide evidence that they are looking for a job and making some child support payments. It's important to make an appointment with a child support office upon release from prison. Request a review of your court order when you return to work, or if you reunite with your child's other parent.

Are there any services available to help me get a job so I can pay my child support?

You can go to the Texas Workforce Commission's local work-

force development board for job search help, skills training and employment support services. You also may dial 211 or search the Internet for referrals to educational, literacy or parenting classes; or referrals to substance abuse counseling. In some cases, the court may order a noncustodial parent who is behind on child support payments to take part in one or more of these services.

What can I do about my child support case once I am released from prison?

- Contact the child support office handling your case and provide your new phone number, address and employment information. If you are living in transitional housing, let the office know how much of your **income** is deducted to cover the expense. Remember that the more information you provide, the easier it is for the child support office to make informed decisions about your case.
- Pay child support regularly while you are looking for work. Even if you can't pay the full amount, pay what you can.
- Stay in touch with the child support office handling your case about your job search efforts, and find employment before an enforcement action is taken.
- Notify the child support office as soon as you get a job, so that the office can send an order to your employer to automatically deduct child support from your pay check and send it to the Texas State Disbursement Unit.

- Request referrals for parenting classes, job help or other social services.

My child support order was modified during my incarceration. Now that I am out, will my monthly payment change?

If your child support order was lowered while you were in prison, the court will consider your release from prison as a reason it can change your child support order. After your release from prison, the amount you pay in child support will likely increase to reflect your actual earnings or your earning capacity.

Do I have to go to court to get my child support modified when I get out of prison?

Not always; in some cases you may be eligible for the **Child Support Review Process (CSRP)**, which is one way to handle legal issues on your child support case without going to court. In CSRP, both parents are given the opportunity to meet with a child support officer at a local child support office to establish a legal order. Ask at the child support office if you are eligible.

How does the court decide how much child support I will pay?

Texas law sets the following general guidelines for child support payments. The percentage is applied to the net resources of the noncustodial parent.

- 20% for one child
- 25% for two children
- 30% for three children
- 35% for four children
- 40% for five children
- Not less than 40% for six or more children

Special rules apply if you have children in more than one household.

I have remarried, and my spouse makes a very good living. Will the child support office take my child support out of my spouse's earnings? Will my spouse's income be counted when my child support amount is calculated?

No. Child support cannot be taken out of a spouse's check or earnings. A new spouse's income will not be added to your net resources when calculating the amount of child support to be paid.

I have children with different mothers. How will the court determine the amount of child support that I pay?

When you have children in different households, the court uses a multiple household formula to determine the amount of support you must pay. It is important that you let the judge or child support review officer know that you are legally responsible to support other children who have a different mother.

CONTACT INFORMATION FOR USE AFTER INCARCERATION

BY U. S. MAIL

Office of the Attorney General
 Child Support Division
 P. O. Box 12017
 Austin, TX 78711-2017

ON THE INTERNET

website: www.texasattorneygeneral.gov
 email: child.support@texasattorneygeneral.gov

BY TELEPHONE

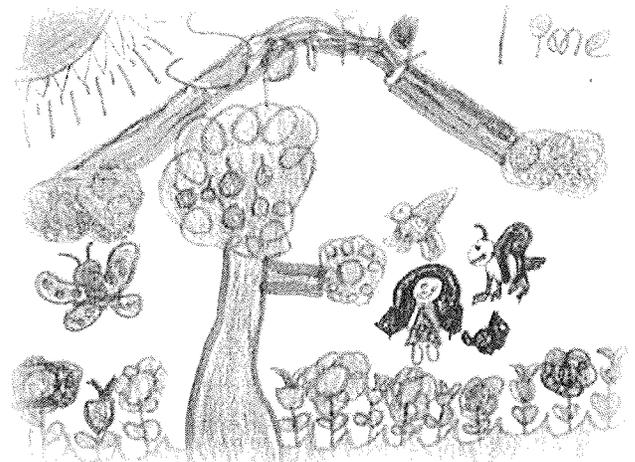
Customer Service Centers (800) 252-8014
 Paternity Opportunity Program (866) 255-2006

24-HOUR PAYMENT AND CASE STATUS INFORMATION

(800) 252-8014

FOR THE DEAF AND HARD-OF-HEARING

1-800-Relay-TX
 (800) 735-2989



CHILD SUPPORT DEFINITIONS

Accredited private lab – A lab accredited by the American Association of Blood Banks to perform genetic testing to determine whether a man is the biological father of a child

Accrual – Sum of child support payments that are due or overdue

Amend the birth certificate – A special request made to the Texas Vital Statistics Unit that allows parents to change information on a child's birth certificate

Arrearage – Past due, unpaid child support owed by the noncustodial parent

Acknowledgment of Paternity (AOP) – A document that unmarried parents can voluntarily sign to establish legal paternity for their child without going to court. The form does not establish child support or resolve custody and visitation.

Case – A collection of people associated with a particular child support order, court hearing, and/or request for IV-D services. This typically includes: a custodial parent (CP), one or more children, a noncustodial parent (NCP) and/or presumed father (PF). Every child support case has a unique Case ID number.

Case ID – Unique identification number assigned to a child support case

Child support modification – A court-ordered change to a child support order, which can include your child support payment amount being lowered or raised

Child support – Financial support paid by a parent to help support a child or children of whom they do not have custody

Child Support Review Process (CSRP) – OAG expedited administrative actions to establish, modify, and enforce child support and medical support obligations, to determine parentage, or to take any other actions authorized under Title IV-D of the Social Security Act.

Court order – A legally binding document issued by a court of law. A court order related to child support can dictate how often, how much, and/or what kind of support a noncustodial parent must pay and how long he or she must pay.

Custodial parent (CP) – The person who has primary care, custody and control of the child, also referred to as the obligee

Dependent – A child who is under the care of someone else. Most children are dependents. The child ceases to be a dependent when he or she reaches the age of 18, as determined by state law, but depending on the state's provisions, may remain eligible for child support for a period after he or she turns 18 years of age.

Default judgment – A judgment entered when a person fails to respond to a legal action or fails to appear in court even though the person was notified of the legal action and court date

Genetic testing (DNA testing) – Analysis of inherited factors to determine whether a man is a child's biological father

Guidelines – A standard method for setting child support amounts based on the income of the parent(s) and other factors determined by state law

Income – Any periodic form of payment to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, pension, or retirement program payments and interest

Legal father – A man who is recognized by law as the male parent of a child

Material and substantial change – A serious and meaningful change; something that makes enough of a difference to the family's situation that it justifies a review of the child support order

Monthly support obligation – The amount of money a noncustodial parent is required to pay per month

Net resources – Income and earnings minus allowable deductions, such as federal taxes

Noncustodial parent (NCP) – The parent who does not have primary care, custody and control of the child, also referred to as the obligor

OAG – Office of the Attorney General

Obligated – A term meaning that a noncustodial parent (NCP) is required to meet the financial terms of a court or administrative order

Obligation – Amount of money to be paid as support by a noncustodial parent (NCP). It can take the form of financial support for the child, medical support or spousal support. An obligation is recurring and ongoing. It is not a one-time debt.

Order – Direction of a magistrate, judge or properly empowered administrative officer

Paternity – Legal determination of fatherhood

Rescind – To cancel; refers to a change of mind after signing an Acknowledgment of Paternity (AOP).

Review and adjustment packet – A Texas Child Support Division forms packet. The packet may be automatically sent once every three years while the child support case is open, or may be sent when a parent requests a review of the child support obligation, and includes questions about each parent's financial and family situation.

Visitation provisions – Language in a court order that says when a parent has parenting time (visitation) with the child(ren) listed on the court order

NOTES

SCFO

INQUIRY FORM FOR INCARCERATED PARENTS

Read the section below carefully before completing this form. If you have multiple cases, use one form for each case.
(Photocopies are acceptable).

(Please print)

NAME (Last, first, middle): _____ INMATE#: _____

FACILITY NAME: _____

FACILITY ADDRESS: _____ CITY/ZIP CODE: _____

SOCIAL SECURITY NUMBER: _____

ATTORNEY GENERAL CASE NUMBER: _____

COURT CAUSE NUMBER & COUNTY OF JURISDICTION: _____

OTHER PARENT'S NAME: _____

NAME OF CHILD(REN): _____

DATE OF ENTRY: _____ DATE OF RELEASE: _____

PLEASE CHECK **ONLY** THE LINES YOU WANT US TO RESPOND TO:

I would like the address and phone number of the child support office handling my case.

I have a child support case, and I am requesting that it be reviewed to see if I qualify for a lower monthly child support payment.

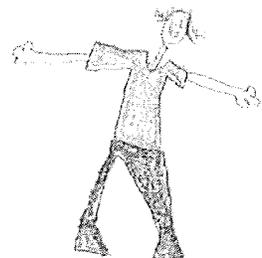
I was not married to the mother/father of my child _____ (child's name) and would like to establish paternity (legal fatherhood) for this child.

NOTE: Requests for information not listed above will not be answered. State and federal law limits the release of certain information on child support cases.

SIGNATURE _____ DATE _____

MAIL TO:

Office of the Attorney General
Child Support Division
Mail Code 038
P. O. Box 12017
Austin, TX 78711-2017



SCFO



DATE: _____

District Clerk
_____ County
[insert address]

Dear Clerk:

Attached is my Motion to Place Defendant on Community Supervision and a Request for Appointment of Counsel. A copy of the motion has been sent to the District Attorney.

Please file this motion with the papers of my case and present it to the court for its consideration. Should the court grant me a hearing, the hearing must be held before the expiration of 180 days from the date of the execution of the sentence.

Please advise me of the Court's decision on this motion at the address below.

Your cooperation in this matter is very much appreciated.

Sincerely,

DEFENDANT - OFFENDER

TDCJ #

ADDRESS

cc: _____ County District Attorney
[insert DA's name and address]

CAUSE NO. _____

THE STATE OF TEXAS

VS.

[INSERT YOUR NAME]

§
§
§
§
§

IN THE DISTRICT COURT OF

_____ COUNTY, TEXAS

_____ JUDICIAL DISTRICT

**MOTION TO PLACE DEFENDANT
ON COMMUNITY SUPERVISION AND
REQUEST FOR APPOINTMENT OF COUNSEL**

Now comes the Defendant in the above cause, and under the provisions of *Tex. Code of Crim. Proc.* art. 42.12 § 6(a) moves the Court to set a hearing to determine whether to suspend further execution of Defendant's sentence and place him/her on community supervision. In support of this motion, Defendant would show the Court the following:

I.

Defendant was sentenced less than 180 days prior to this date.

II.

Defendant is otherwise eligible for community supervision under the provisions of *Tex. Code of Crim. Proc.* art. 42.12. Defendant is (1) serving a sentence of 10 years or less and (2) the offense for which he/she is convicted was not listed in *Tex. Code of Crim. Proc.* art. 42.12 § 3g, on the date it occurred.

III.

Defendant has never been incarcerated in a penitentiary serving a sentence for a felony prior to sentencing in this cause.

IV.

Defendant would not benefit from further incarceration.

REQUEST FOR APPOINTMENT OF COUNSEL

Being indigent, Defendant moves the Court to appoint an attorney to represent him/her should the Court grant him/her a hearing on this motion. Attached to this motion is a Declaration of Inability to Pay Cost.

WHEREFORE, PREMISES CONSIDERED, Defendant moves the court to set a hearing on this motion, appoint counsel to represent him/her at the hearing, and after the hearing, order that further execution of this sentence be suspended.

Respectfully submitted,

DEFENDANT – OFFENDER

CERTIFICATE OF SERVICE

I certify that on this the _____ day of _____, 20_____, a true and correct copy of the foregoing Motion to Place Defendant On Community Supervision and Request for Appointment of Counsel has been sent to the prosecuting attorney.

DEFENDANT - OFFENDER

DECLARATION OF INABILITY TO PAY COST

The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6, Chapter 132 of the Texas Civil Practice & Remedies Code.

Now respectfully comes _____, TDCJ # _____, and declares that I am unable to pay the court costs in this criminal action and requests leave of the Court to proceed in forma pauperis in this accompanying criminal action and would show the Court the following:

- (1) I am presently incarcerated in the _____ Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$_____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$_____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank account, and I received no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$_____.
- (8) I owe \$_____ as restitution.
- (9) My monthly expenses are approximately \$_____.

I, _____, TDCJ # _____, being presently incarcerated in the _____ Unit of TDCJ in _____ County, Texas, verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, 20_____.

Printed Name:
TDCJ #

CAUSE NO. _____

THE STATE OF TEXAS

§
§
§
§
§

IN THE DISTRICT COURT OF

VS.

_____ COUNTY, TEXAS

[INSERT YOUR NAME]

_____ JUDICIAL DISTRICT

ORDER REGARDING APPOINTMENT OF COUNSEL

On this _____ day of _____, 20_____, Defendant's Request for Appointment of Counsel, together with Defendant's Declaration of Inability to Pay Cost, was presented and heard by the Court.

IT IS ORDERED, ADJUDGED, AND DECREED that the request should be:

_____ GRANTED _____ DENIED

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that _____ is appointed to represent Defendant on this Motion to Place Defendant on Community Supervision.

SIGNED AND ENTERED on this the _____ day of _____, 20_____.

JUDGE PRESIDING

CAUSE NO. _____

THE STATE OF TEXAS

§
§
§
§

IN THE DISTRICT COURT OF

VS.

_____ COUNTY, TEXAS

[INSERT YOUR NAME]

_____ JUDICIAL DISTRICT

ORDER REGARDING REQUEST FOR HEARING

On this _____ day of _____, 20____, Defendant's request for a hearing on his/her Motion to Place Defendant on Community Supervision, was presented and heard by the Court.

IT IS ORDERED, ADJUDGED, AND DECREED by the Court that Defendant's request for a hearing should be:

_____ GRANTED _____ DENIED

The hearing is scheduled for the _____ day of _____, 20____, in the courtroom of the _____ District Court, _____ County, Texas.

JUDGE PRESIDING

DATE: _____

District Clerk
_____ County
[insert name and address]

Dear Clerk:

Attached is my Motion to Place Defendant on Community Supervision and a Request for Appointment of Counsel. A copy of the motion has been sent to the District Attorney.

Please file this motion with the papers of my case and present it to the court for its consideration.

Please advise me of the Court's decision on this motion at the address below.

Your cooperation in this matter is very much appreciated.

Sincerely,

DEFENDANT - OFFENDER
TDCJ # _____

ADDRESS

cc: District Attorney
_____ County
[insert name and address]

CAUSE NO. _____

THE STATE OF TEXAS

§
§
§
§
§

IN THE DISTRICT COURT OF

VS.

_____ COUNTY, TEXAS

[INSERT YOUR NAME]

_____ JUDICIAL DISTRICT

**MOTION TO PLACE DEFENDANT
ON COMMUNITY SUPERVISION AND
REQUEST FOR APPOINTMENT OF COUNSEL**

Now comes the Defendant in the above cause, and under the provisions of *Tex. Code of Crim. Proc.* art. 42.12 § 15 moves the Court to set a hearing to determine whether to suspend further execution of Defendant's sentence and place him/her on community supervision. In support of this motion, Defendant would show the Court the following:

**MOTION TO PLACE DEFENDANT
ON COMMUNITY SUPERVISION**

Defendant is currently serving a sentence in a state jail facility. Defendant was sentenced under the *Texas Penal Code* § 12.35(a). Defendant has been in state jail custody for more than 75 days. Defendant is therefore eligible for community supervision under *Tex. Code of Crim. Proc.* art. 42.12 § 15(f)(2).

REQUEST FOR APPOINTMENT OF COUNSEL

Defendant is an indigent person and asks the Court to appoint an attorney to represent him/her should the Court order a hearing on this motion. Attached is a Declaration of Inability to Pay Cost.

WHEREFORE, PREMISES CONSIDERED, Defendant asks the court to appoint counsel to represent him/her at the hearing if one is ordered, and after the hearing, order that further execution of this sentence be suspended.

Respectfully submitted,

DEFENDANT – OFFENDER
TDCJ # _____

CERTIFICATE OF SERVICE

I certify that on this the _____ day of _____,
20_____, a true and correct copy of the foregoing Motion to Place Defendant On Community
Supervision and Request for Appointment of Counsel has been sent to the prosecuting attorney.

DEFENDANT - OFFENDER
TDCJ # _____

DECLARATION OF INABILITY TO PAY COST

The following Declaration is made pursuant to the Texas Rules of Civil Procedure and Title 6, Chapter 132 of the Texas Civil Practice & Remedies Code.

Now respectfully comes, _____, TDCJ # _____, and declares that I am unable to pay the court costs in this criminal action and requests leave of the Court to proceed in forma pauperis in this accompanying criminal action and would show the Court the following:

- (1) I am presently incarcerated in the _____ State Jail Unit of the Texas Department of Criminal Justice where I am not permitted to earn or handle money.
- (2) I have no source of income or spousal income.
- (3) I currently have \$ _____ credited to me in the Inmate Trust Fund.
- (4) During my incarceration in the Texas Department of Criminal Justice I have received approximately \$ _____ per month as gifts from relatives and friends.
- (5) I neither own nor have an interest in any realty, stocks, bonds, or bank account, and I received no interest or dividend income from any source.
- (6) I have _____ dependents.
- (7) I have total debts of approximately \$ _____.
- (8) I owe \$ _____ as restitution.
- (9) My monthly expenses are approximately \$ _____.

Being presently incarcerated in the _____ State Jail Unit of the Texas Department of Criminal Justice in _____ County, Texas, I verify and declare under penalty of perjury that the foregoing statements are true and correct.

Executed on this the _____ day of _____, 20_____.

Printed Name:
TDCJ #

CAUSE NO. _____

THE STATE OF TEXAS

§
§
§
§
§

IN THE DISTRICT COURT OF

VS.

_____ COUNTY, TEXAS

[INSERT YOUR NAME]

_____ JUDICIAL DISTRICT

ORDER REGARDING APPOINTMENT OF COUNSEL

On this _____ day of _____, 20_____, Defendant's Request for Appointment of Counsel, together with Defendant's Declaration of Inability to Pay Cost, was presented and heard by the Court.

IT IS ORDERED, ADJUDGED, AND DECREED that the request should be:

_____ GRANTED _____ DENIED

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that _____ is appointed to represent Defendant on this Motion to Place Defendant on Community Supervision.

SIGNED AND ENTERED on this the _____ day of _____, 20_____.

JUDGE PRESIDING

CAUSE NO. _____

THE STATE OF TEXAS

§
§
§
§
§

IN THE DISTRICT COURT OF

VS.

_____ COUNTY, TEXAS

[INSERT YOUR NAME]
DISTRICT

_____ JUDICIAL

ORDER REGARDING REQUEST FOR HEARING

On this _____ day of _____, 20____,

Defendant's request for a hearing on his/her Motion to Place Defendant on Community Supervision, was presented and heard by the Court.

IT IS ORDERED, ADJUDGED, AND DECREED by the Court that Defendant's request for a hearing should be:

_____ GRANTED _____ DENIED

The hearing is scheduled for the _____ day of _____, 20____, in the courtroom of the _____ District Court, _____ County, Texas.

JUDGE PRESIDING

Honorable _____, Judge
_____ District Court
_____ County Courthouse
_____, Texas _____

RE: Cause No. _____
State v. _____ (Your Name)
TDCJ No. _____
Request for Time-Cut

Dear Sir/Madam:

On _____, _____, I was convicted in your court for the offense of _____, after a plea of _____, and sentenced to a _____ year sentence in the Texas Department of Criminal Justice.

According to the Rules and Regulations of the Parole Board, if a majority of the trial officials (i.e. the presiding judge, district attorney, and sheriff) give a favorable recommendation, without solicitation by the Board, an offender's sentence may be commuted. This being the case, I am requesting that such a favorable recommendation be made to the Parole Board in light of the following circumstances of my conviction:

[List every reason why you feel that the sentence was excessive (e.g., guilty pleas, illnesses or addictions at the time of the crime, jury prejudice, lack of sufficient evidence, prior clean record, mitigating factors at the time of the crime, self-defense, etc.).]

Because of these reasons, I am hoping that the necessary trial officials, en banc, will discuss the possibility of a favorable recommendation in my case.

Any consideration given in this matter will be sincerely appreciated.

Very truly yours,

Signature

[NOTE: Send copies of this letter to the district attorney and the sheriff.]

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LIST OF FREE LEGAL SERVICES PROVIDERS

The following organizations and attorneys provide free legal services and/or referrals for such services to indigent individuals in immigration removal proceedings, pursuant to 8 CFR §1003.61. Some of these organizations may also charge a nominal fee for legal services to certain low income individuals.

DALLAS, TEXAS

CATHOLIC CHARITIES of Dallas, Inc.
9461 LBJ Freeway, Suite 100
Dallas, TX 75243
(214) 634-7182

- Representation in removal proceedings for detained and non-detained cases within Dallas area.
- Will represent aliens in Asylum cases.
- Does not provide representation for aliens detained at the Big Spring facility, Eden, or Oklahoma.

JUSTICE FOR OUR NEIGHBORS DFW North-Central Region

422 Church Street
Grapevine, TX 76051
(817) 310-3820 – Tel
(817) 310-3803 – Fax
www.jfondfw.org

- Only represents clients at the Dallas Immigration Court
- Will represent aliens in asylum cases.

HUMAN RIGHTS INITIATIVE OF NORTH TEXAS, INC.

2801 Swiss Avenue
Dallas, TX 75204
(214) 855-0520

- Will only represent aliens in the Dallas Immigration Court.
- Will represent aliens in asylum cases.
- Will represent juveniles.
- Will NOT provide representation in detention facilities.

BAPTIST IMMIGRATION CENTER

Alex Camacho, Accredited
507 Titus Street
Mckinney, TX 75069
(972) 562-4561

- Do not take cases related to or caused by drug or child abuse.
- Provide assistance in some cancellation of removal cases.

PAMELA WILLIAMS KELLY, Esq.

1269 Old Hickory Road
Memphis, TN 38116-4355
(901) 210-6551
www.attorneypamelakellywordpress.com

- Will represent indigent aliens in immigration proceedings pro bono, excluding asylum.
- Will represent aliens for a reduced fee who qualify for U-visa, T-visa, DACA and similar relief.

CENTER FOR IMMIGRATION SERVICES

3200 Southwest Fwy, Suite 3300
Houston, TX 77027
(281) 764-9696 – Tel

info@cfuis.com
http://www.cfuis.com

EL PASO, TEXAS

LAS AMERICAS IMMIGRANT ADVOCACY CENTER

1500 E. Yandell Dr.
El Paso, TX 79902
(915) 544-5126

- May charge a nominal fee
- Will represent aliens in Asylum cases.
- Will represent juveniles and victims of crime.
- Asylee, women, and children are priorities.
- El Paso Service Processing Center only.

DIOCESAN MIGRANT AND REFUGEE SERVICES

2400 E. Yandell, Ste. A
El Paso, TX 79903-3617
(915) 532-3975

- May charge a nominal fee.

UNITED NEIGHBORHOOD ORGANIZATION (UNO)

8660 Montana, Ste. 1
El Paso, TX 79925
(915) 775-1161

- Will NOT represent aliens in Asylum or refugee cases.
- May charge a nominal fee.

UNO branch location:

747 E. San Antonio Avenue, Suite 100
El Paso, TX 79901
(915) 351-0099

- Will not represent aliens in asylum or refugee cases.
- May charge a nominal fee.

HARLINGEN, TEXAS

PROBAR - SOUTH TEXAS PRO BONO ASYLUM REPRESENTATION

222 East Van Buren Ave., Suite 300
Harlingen, TX 78550
(956) 425-9231

If calling from the Port Isabel Detention Center, for free call without calling card:

- Detainee picks up the phone in the dorm
- Presses 1 for English, 2 for Spanish
- Enters PIN number
- Selects prompt 6
- Enters 5708 # (#sign)

Will represent aliens in Asylum hearings.

SOUTH TEXAS IMMIGRATION COUNCIL

Casa Mexico Bldg.
4793 West Expressway 83
Harlingen, TX 78552
(956) 425-6987

- Will represent aliens in Asylum hearings.

CASA DE PROYECTO LIBERTAD

113 N. 1st St.
Harlingen, TX 78550
(956) 425-9552

1-800-477-9552 if calling from the PISPC Detention Center.

- Will represent aliens in Asylum hearings.

SOUTH TEXAS IMMIGRATION COUNCIL, INC.

1201 Galveston St.
McAllen, TX 78501
(956) 682-5397
(956) 682-8133, Fax

- Will represent aliens in Asylum hearings.
- May charge a nominal fee

SOUTH TEXAS IMMIGRATION COUNCIL

4 E. Levee St.
Brownsville, TX 78520
(956) 542-1991

- Will represent aliens in Asylum hearings.

TEXAS RIOGRANDE LEGAL AID, INC.

316 South Closner Blvd.
Edinburg, TX 78539
Local Tel: (956) 393-6200
Toll Free Intake: 1-888-988-9996

- Will represent Legal Permanent Residents, United States citizens and VAWA, U-visa or T-visa applicants.

HOUSTON, TEXAS

CARECEN CENTRAL AMERICAN REFUGEE CENTER

6006 Bellaire Boulevard, Ste. 100
Houston, TX 77081
(713) 665-1284

- May charge nominal fee.
- Will represent person(s) in Asylum case(s).

INTERNATIONAL SERVICES OF THE YMCA GREATER HOUSTON AREA

Pro Bono Asylum Program
6300 West Park, Ste. 600
Houston, TX 77057
(713) 339-9015

- May charge a nominal fee.
- Will represent person(s) in Asylum case(s).

THE CABRINI CENTER FOR IMMIGRANT LEGAL ASSISTANCE

2900 Louisiana Avenue
Houston, TX 77006
(713) 874-6570

- May charge nominal fee.
- Will represent person(s) in Asylum case(s).

KIDS IN NEED OF DEFENSE (KIND)

Houston Office
c/o South Texas College Law
1303 San Jacinto Street, 9th Floor
Houston, TX 77002
Phone: 832-779-4030

(KIND serves children under age 18 only)

Human Rights First

1303 San Jacinto Street, 9th Floor
Houston, TX 77002
(713) 955-1360

Will represent person(s) in Asylum case(s).

Pamela Williams Kelly, Esq.

1269 Old Hickory Road
Memphis, TN 38116-4355
Phone: 901-210-6551
www.attorneypamelakellywordpress.com

- Will represent indigent aliens in immigration proceedings pro bono, excluding asylum.
- Will represent aliens for a reduced fee who qualify for U-visa, T-visa, DACA and similar relief.

Ashley Foret Dees

313 Broad Street
Lake Charles, LA 701601
Tel: (337) 514-0354
1020 Studewood Street
And
Houston, TX 77008
Tel: (877) 295-1025
Fax: (337)326-5543
Website: www.afdees.com

- Will provide free legal services to indigent aliens
- Will represent indigent aliens in immigration proceedings pro bono

Claude Michael Cameau

313 Broad Street
Lake Charles, LA 701601
Tel: (337) 514-0354
1020 Studewood Street
And
Houston, TX 77008
Tel: (877) 295-1025
Fax: (337)326-5543
Website: www.afdees.com

- Will provide free legal services to indigent aliens
- Will represent indigent aliens in immigration proceedings pro bono

SAN ANTONIO, TEXAS

CATHOLIC CHARITIES

ARCHDIOCESE OF SAN ANTONIO, INC.

2903 West Salinas
San Antonio, TX 78207
(210) 433-3256

- Only represents clients in San Antonio Immigration Court.

AMERICAN GATEWAYS

One Highland Center
314 Highland Mall Blvd., Ste. 501
Austin, TX 78752
(512) 478-0546

- Only represents clients in San Antonio Immigration Court.
- Will represent aliens in Asylum cases.

IMMIGRATION CLINIC OF THE UNIVERSITY OF TEXAS SCHOOL OF LAW

727 East Dean Keeton Street
Austin, TX 78705-3299
(512) 232-1292

- Will represent aliens in Asylum cases.
- Clinic is closed from May 1 until September 1.

REFUGEE AND IMMIGRANT CENTER FOR EDUCATION AND LEGAL SERVICES

1305 N. Flores
San Antonio, TX 78212
(210) 226-7722

- Will represent aliens in Asylum cases.

IMMIGRATION & HUMAN RIGHTS CLINIC

Center for Legal & Social Justice
2507 NW 36th Street
San Antonio, TX 78228
(210) 431-2596

- Will represent aliens in Asylum cases.

TEXAS RIO GRANDE LEGAL AID, INC.

1111 N. Main Ave.
San Antonio, TX 78212
(210) 212-3783
Toll Free: 1-888-988-9996

- Will represent Legal Permanent Residents, United States citizens, and U-visa or T-visa applicants.

MATHEW S. FURNESS

1001 Texas Avenue, Ste, 1400
Houston, Texas 77002
Tel: (713) 320-6952
Fax: (888) 572-4313

- Will represent indigent aliens in immigration proceedings pro bono
- Will represent indigent aliens in asylum related proceedings pro bono
- May charge a nominal fee for above services

CENTER FOR IMMIGRATION SERVICES

3200 Southwest Pkwy, Suite 3300
Houston, Texas 77027
Te: (281) 764-9696
Info@cfuis.com
<http://www.cfuis.com>

THE BERNARDO KOHLER CENTER

P.O. Box 42185
Austin, Texas 78704
Tel: (512) 831-4272
Fax: (512) 661-0326

- Will represent indigent aliens in asylum cases
- Will represent juveniles (under 21), U-visa, and T-visa applicants
- Does not provide representation for aliens detained at the Pearsall or Hutto detention facilities

ASI – Asociacion de Servicios para el Inmigrante

Linda Brandmiller, Esq.
P.O. Box 831183
San Antonio, Texas 78283
Tel: (210) 900-0991
Fax: (210) 579-9488
Email: lbrandmiller@asiinc.org

May charge nominal fee; Only represents clients in San Antonio Immigration Court; Priority cases are juveniles, victims of crime, and trafficking; Will represent aliens in asylum cases; Will provide representation for detainees in Hutto, Karnes, Pearsall, Laredo and Encinal.

SCFO

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TEXAS PRISONER INNOCENCE QUESTIONNAIRE

If you want to make an innocence claim, you should first read Chapter 13 of the Offender Legal Handbook, Eleventh Edition. The Offender Legal Handbook is in your unit law library.

If you think you meet the requirements and criteria for making a claim of innocence, fill out the Texas Prisoner Innocence Questionnaire (TPIQ), along with the Consent for Release of Information, and send them to an innocence clinic. Follow the mailing instructions which you will find near the end of the TPIQ. If you do not know the answer to a question, simply say "I do not know." Whenever you are given a choice for an answer (for example, YES or NO) circle the correct answer.

You should not fill out the TPIQ unless you are innocent of the crime(s) holding you in prison. Courts require new, clear and convincing evidence that proves your innocence. "New evidence" means evidence that was not available at the time of trial and was not considered by the court. If your case does not meet the definition above, no new evidence exists to prove your innocence, or the evidence available does not meet a clear and convincing standard, the law school clinics will not take your case. Use your best hand writing. If they can't read it, they can't help you. If you run out of space, write "see attached." On a clean sheet of paper, write the corresponding number of the question you are finishing and complete your answer. If you need more than one additional page of paper to explain a question you are probably writing too much. Keep it short and to the point!

You may need to fill out more than one TPIQ if you are claiming innocence on more than one conviction. Use the following examples to know whether to fill out more than one TPIQ:

- if you were charged with the kidnapping and aggravated sexual assault in an incident that involved a single victim, fill out only one TPIQ.
- if the conviction involves multiple counts against the same victim (for example, sexual assault of the same child on different days), fill out only one TPIQ.
- if you were convicted in two or more sexual assaults, involving different victims who were attacked at different times, fill out a TPIQ for each conviction.

TEXAS PRISONER INNOCENCE QUESTIONNAIRE

- I. APPLICANT CHECKLIST- Check "yes" or "no" for each question below as it relates to the conviction you are claiming innocence for. If you are claiming innocence on more than one conviction, reread the first page to see if you need to fill out a separate TPIQ for each conviction.**

YES	NO	THE CRIME YOU CLAIM INNOCENCE FOR:
		Was it committed in Texas?
		Was it for an offense that occurred while in custody?
		Is it a FELONY?
		Is it a FEDERAL conviction?
		Is it a DEATH PENALTY conviction?
		Is it a drug-related conviction?
		Did you plead GUILTY, NO CONTEST or NOLO CONTENDERE?
		Have you exhausted your direct appeals?
		Do you currently have a state and/or federal writ pending?
		Are you currently represented by an attorney?
		Have you ever been released to parole/probation on the conviction?
		If you were released to parole/probation on the conviction, was that parole/probation ever revoked?
		If your parole/probation was revoked, is the innocence claim on the underlying offense (not on the reason for the revocation)?
		Are you currently incarcerated?

I. PERSONAL INFORMATION

- A. Full name (first, middle, last): _____
- B. Date of birth: _____
- C. TDCJ number: _____
- D. Current unit and mailing address:
- E. Email address (if any):
- F. What was your Driver's License Number at the time of conviction (even if now currently invalid)? _____ State of issuance: _____

G. Closest relative or personal friend for contact outside of prison (name, relationship, address, phone #):

H. What is your primary/first language? _____

I. What was the highest grade you completed in school? _____

J. Have you been given an IQ Test? Yes No If yes, what was your score? _____
Who gave the test and what year?

K. Please list the school(s) you have attended:

L. Are you currently represented by an attorney or innocence organization?
Yes No

If yes, list the name, address, and phone number of the attorney or organization and describe the proceedings in which you are represented:

M. Have you ever been diagnosed with a mental problem (for example, schizophrenia, bipolar, etc.)? Yes No
If yes, what was the diagnosis, who made it, and when?

N. What kind of legal help do you want (DNA motion, state writ, clemency, etc)?

II. CURRENT CONVICTION INFORMATION

A. List all convictions for which you are currently incarcerated. Provide the offense type, date of offense, length of sentence, county of conviction and cause number.

B. For the conviction that you are claiming innocence, fill out the chart below. Reread the instructions on the first page to see whether you need to fill out a separate TPIQ if you have more than one conviction that you are claiming innocence for. If you are filling out more than once TPIQ, be sure to send all the TPIQs to the same clinic at the same time.

Offense			
City, County			
Trial Cause Number			
Offense Date			
Arrest Date			
Conviction Date			
Conviction By (circle one)	PLEA	BENCH TRIAL	JURY TRIAL
Sentence Length			
Parole Eligibility Date			
Sentence Discharge Date			
Are you claiming self-defense	YES	NO	
Are you Innocent? (circle one)	YES	NO	

III. INNOCENCE CLAIM (check all that apply to your claim of innocence)

_____ **DNA will prove my innocence**

_____ **An alibi will prove my innocence**

_____ **The victim(s) mistakenly identified me as the criminal actor**

_____ **The victim has recanted**

_____ **The victim lied about the incident**

_____ **There are additional witnesses who never testified**

_____ **Someone else has admitted committing the crime and said I was not involved**

_____ **I gave a false confession**

_____ **Other:** Explain, describing what new evidence exists that would lead to proof of innocence:

- A. Describe what the police or prosecutor say you did to commit the crime for which you were convicted but are claiming innocence. If you were charged as an accomplice, or as a party-to-the-crime, describe what role they say you played in the offense.

- B. Describe your version of events. Include a detailed description of what you were doing that day, what happened, and any other information you feel is important, including why you think important information was not presented on your behalf.

IV. LAW ENFORCEMENT INVESTIGATION/EVIDENCE

- A. List the law enforcement agency that investigated the crime and the names of the investigating officers if you know them:
- B. How did you become a suspect in the investigation?
- C. To your knowledge, were there any other suspects the police investigated? If so, whom?
- D. To your knowledge, why did the investigation into that person stop?

E. Why do you think the "victim(s)" made complaints against you?

F. When was the first time you spoke with your trial lawyer?

G. Did the police or investigating detective(s) ever interview you, and if so, how many times were you interviewed?

H. How long were the interviews?

I. Did you ask to speak to a lawyer during the interview(s)? Yes No

If so, did the interview stop when you requested your lawyer? Yes No

J. Did you sign any papers during the interview, and if so, what did you sign?

K. Did you sign any papers after the interview, and if so, what did you sign?

L. Did you give a confession or make statements to investigating officers? Yes No

If yes:

1. Please give a detailed description of what you told officers:

2. Why did you give the statement?

3. Was it a written statement? Yes No
If it was written, did you sign it? Yes No

4. Was your lawyer with you when you signed the statement? Yes No

5. Was the statement admitted at trial? Yes No

M. Please list the name(s) of all co-defendants (others who were charged with the same crime) or other suspects investigated for this crime:

N. Do you know if the co-defendant(s) were offered anything in exchange for their testimony, and if so, what were they offered?

O. What sentence(s) did the co-defendant(s) receive? Where are they now?

P. Please list the name(s) of all alleged victim(s) of the offense for which you were convicted:

Q. Did any eyewitnesses identify you, and if so, when and where? (for example, at the scene of the crime, photo line up, in court, other)

R. Did anyone else identify or implicate you, and if so, who, where, when?

S. If someone identified you, specify who it was and whether they testified.

V. COURT PROCEEDINGS

A. Pre-Trial:

1. Were you offered a plea? Yes No What was it? _____

2. Did you take the plea agreement? Yes No

Why or why not?

Circle your final plea: NOT GUILTY GUILTY NOLO CONTENDERE

3. Name, address and phone number of trial lawyer:

Circle one: RETAINED APPOINTED PRO BONO

4. Name, address, and phone number of any investigator (other than police officers) who worked on your case:

5. Name(s) of the prosecuting District Attorney(s) on your case:

6. Name of the judge presiding in your case:

B. Trial Information (skip if you took a plea and go to C., below):

1. Did you testify? Yes No

If no, why not?

2. Did the "victims" testify? Yes No

3. Did any surviving family member or friend give a victim impact statement, and if so, who?

4. List the witnesses that testified for the STATE, how they are related to the case, and briefly describe the testimony of each witness:

5. Did any expert(s) testify for the STATE (for example, a doctor, handwriting expert, scientist, etc.)? Please provide the name of the expert, what kind of expert testified, address, and telephone number.

6. List the witnesses that testified for the DEFENSE, how they are related to the case, and briefly describe the testimony of each witness:

7. Did any expert(s) testify for the DEFENSE (for example, a doctor, handwriting expert, scientist, etc.)? Please provide the name of the expert, what kind of expert testified, address, and telephone number.

C. Evidence (answer even if you took a plea):

1. Physical Evidence/Non-Biological. Was any physical/non-biological evidence recovered (for example, fingerprints, weapons, fibers, tire tracks, etc.) during the investigation of your case? Yes No

If yes, please describe:

Was that evidence used at trial? Yes No

2. Biological Evidence. Was any biological evidence (DNA) recovered during the investigation of your case? Yes No

If yes:

- a. Were any bodily fluids or hair samples obtained from the victim, and if so, what samples were obtained? (for example, vaginal swabs, anal swabs, blood, hair, fingernail scrapings, saliva, etc.)
- b. Were any bodily fluids or hair samples obtained from you, and if so, what samples were obtained?
- c. Who took the samples from you and where was it done?
- d. Was any biological evidence found at the crime scene, and if so, what was found?
- e. Were bodily fluids or hair(s) found on you, your clothing, in your car, home, etc., and if so, what was found and where?
- f. Was any biological evidence found on the victim or at the crime scene, and if so, what was found and where? (for example, blood or semen stains, hair, etc.)

- g. Was any testing done on the bodily fluids or hair samples, and if so, what kind of testing was performed?
- h. Who arranged to have the testing done, prosecution or defense?
- i. Which lab performed the test(s)?
- j. If applicable, who arranged to have the second test done, prosecution or defense?
- k. Which lab performed the second test?
- l. Was testing done on all of the physical/biological evidence recovered during the investigation of your case?
- m. Were the results of the test(s) used at trial, and if no, why not?
- n. Were the results of the test(s) used on appeal, and if no, why not?
- o. Please list what items(s) of evidence you think can be subjected to a DNA test and state how that test will show you are innocent.
- p. Is there any physical evidence that is still available other than bodily fluids or hair, and if so, what is it, where is it, and who has it?

- q. Have you received written notice that evidence in your case has been destroyed? If so, when and from whom?

D. Direct Appeal

1. Did you/your attorney appeal? Yes No

If yes, what is that appeal cause number? _____

2. Is your case still on appeal (waiting for a decision)? Yes No

3. Name, address and phone number of appellate lawyer:

E. Petition for Discretionary Review (PDR)

1. Did you/your attorney file a petition for discretionary review (PDR)? Yes No

If yes, what is the PDR cause number? _____

2. Is your case still waiting for a decision on PDR? Yes No

3. Name, address and phone number of PDR lawyer.

4. Did you/your attorney file a writ of certiorari to the United States Supreme Court? Yes No

F. Writ of Habeas Corpus

1. Did you/your attorney file a writ of habeas corpus in STATE court? Yes No

If yes, how many STATE writs have been filed?

2. Name, address, and phone number of STATE writ lawyer:

3. For each STATE writ filed, list the issues raised. Which issues, if any, did the court decide in your favor?

4. Did you/your attorney file a writ of habeas corpus in FEDERAL court?

Yes No If yes, how many FEDERAL writs have been filed?

5. Please state the name, address and phone number of your FEDERAL writ lawyer.

6. For each FEDERAL writ filed, list the issues raised. Which issues, if any, did the court decide in your favor?

VI. CASE MATERIALS

Please check the materials that are available to you. DO NOT SEND ANY OF THE MATERIALS until asked to do so.

A. Pretrial transcripts _____

B. Trial transcripts _____

C. Police offense reports _____

D. Police field notes (Handwritten notes) _____

E. Affidavits _____

F. Witness Statements _____

G. Laboratory reports

H. Direct appeal brief- State

I. Direct appeal brief – Petitioner (yours)

J. Any other briefs (Specify)

K. Petition for Discretionary Review

L. Habeas Corpus writs

M. DNA motions

N. Other documents or legal materials of any kind
Please describe:

VII. CHILD SEXUAL ABUSE CASES (skip if you are not convicted of child sexual abuse)

a. How many children accused you of molesting them? _____

b. For each child, list the child's name, age at time of abuse, how old the child would be now, gender and the child's relationship to you (for example: daughter, son, step-child, niece, nephew, neighbor, etc.)

c. What did the child/children say that you did?

d. When did the child/children first make the accusation and whom did they tell?

e. Why do you think the child/children made complaints against you?

f. Did a doctor examine the child/children? Yes No
If yes, what was the doctor's name?

g. Describe the results/findings of the exam and any evidence collected:

h. Has the child/children told anyone that they lied or made up the accusation?
Yes No

If Yes, what did they say and to whom did they say it?

VIII. ANY OTHER INFORMATION YOU THINK THE INNOCENCE CLINIC SHOULD KNOW ABOUT YOU OR YOUR CASE.

IX. LIST THE NAME(S) AND CONTACT INFORMATION (address, phone, email) OF ANYONE WHO HELPED YOU COMPLETE THIS FORM.

X. Sign the two-page waiver that appears at the end of the packet. If you do not sign the waiver the clinic cannot accept your case. If you have questions about the waiver, write SCFO.

Mailing Instructions:

When you complete your TPIQ and have signed the "Consent for Release of Information," send the TPIQ and consent form to one of the following innocence clinics. Although you can send the TPIQ to more than one clinic, that may not be helpful because only one clinic at a time will work on your case. The clinics share a database and will know you have sent it to one of them. For more information about the clinics and the type of cases they accept, read Chapter 13 of the Offender Legal Handbook. Your unit law library has a copy.

Thurgood Marshall School of Law Innocence Project
Earl Carl Institute
3100 Cleburne St.
Houston, TX 77004

DO NOT SEND ANY OTHER DOCUMENTS AT THIS TIME. If the clinic needs additional information it will request it from you. You may attach additional pages to explain your case if necessary.

The clinics you send your TPIQ to do not represent you. However, the information you provide in the TPIQ and send to the clinic is in an effort by you to establish an attorney-client relationship with them. As such, that information is confidential and is protected in law by the attorney-client privilege. That is true whether or not an attorney-client relationship is ever formed between you and the clinic.

You must sign the attached "Consent for Release of Information" so that the clinic may review your case. Place the name of the clinic you will be sending the TPIQ to in the space where it says "Name of Clinic." If there is something about the Release you do not understand, send an I-60 to State Counsel for Offenders.

Mailing Checklist (Sender please check off and fill out):

_____ TPIQ enclosed. If more than one, list the number here: _____

_____ **Signed** Consent for Release of Information enclosed

_____ Additional pages enclosed. List the number here: _____

CONSENT FOR RELEASE OF INFORMATION

By signing below, I authorize _____
[insert name of clinic]

(hereinafter "Clinic") its staff or representatives to investigate my case, communicate with my former attorneys, prosecutors, witnesses, the Texas Department of Criminal Justice, Texas Board of Pardons and Paroles, probation and parole officers, and all other persons or governmental agencies that may have information that the Clinic deems necessary in evaluating my case. I specifically waive the attorney-client privilege existing between myself and my former attorneys, paralegals, legal assistants, investigators and other representatives who worked on my behalf and grant them permission to speak to the Clinic's attorneys, staff and representatives investigating my case.

I authorize any and all entities to release to the Clinic or its staff or representatives, any and all records, files, reports and information of any kind related to me or to any criminal case involving me, including police reports, witness statements, post conviction pleadings and correctional records, pre-sentencing reports and other documents in prison social services and legal files, legal papers, court documents, medical records, laboratory analysis, probation reports, attorneys' files and records, and any information necessary to the Clinic to work on my behalf.

I also authorize the release to the Clinic or its staff or representatives any and all records and information in the possession of the Texas Department of Criminal Justice Correctional Institutions Division, Custodian of Medical Records, Unit Classification, or any other state or federal penal institution, including juvenile facilities or mental health or medical facilities, rehabilitation clinics or centers, and any court or probation department, including juvenile. I authorize the release of any documents in the possession of the Federal Bureau of Investigation or any other federal, state, or local law enforcement agency. I also authorize the release of any and all military records.

I further authorize the release of any and all information and records from public or private schools, medical or mental health institutions, or other such institutions, including all prison reports and records, all medical and psychiatric or mental health records, notes, nursing sheets, hospitalization records, physician notes or prescriptions, or any other type of report or record maintained by any of the above institutions, including records concerning substance abuse. I also authorize release of any and all employment records. I also authorize release of any and all records made by or in the possession of any and all attorneys.

I understand that there may be statutes, rules and regulations that protect my confidentiality of some of the records, files, reports and information covered by this release; it is my specific intent to waive the protection of all such statutes, rules and regulations so that confidential information can be shared with the Clinic.

I further authorize the Clinic to disseminate information, other than confidential information, to other persons or entities as may be necessary to fully investigate my case or to assist me with receiving services from such persons. I authorize the Clinic to enter pertinent information into a network database that will be accessed by other clinics pursuing innocence claims.

I understand that by conducting an initial investigation, the Clinic is not agreeing to represent me. I further understand that at any point the Clinic, at its sole discretion, may determine that further investigation is not warranted, and is under no obligation to continue to represent me or investigate my case.

A photocopy of this document shall have the same effect as the original.

By my signature below, I represent that this waiver is voluntary and given without any reservation. This authorization is effective until revoked by the undersigned in writing.

Signature: _____ Date of Birth: _____

Printed Name: _____ TDCJ No.: _____

Date: _____

Witness Signature: _____

Witness Printed Name: _____ Date: _____

SCFO

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