

Attorney Reporting Instructions and Form

Attorney Reporting Requirements Contained in Article 26.04, Code of Criminal Procedure

Background

Beginning in 2014, Article 26.04(j) of the Code of Criminal Procedure will require all attorneys who accept appointments in adult criminal and juvenile delinquency cases to submit an annual statement that describes the percentage of their practice time that is dedicated to work on those appointed cases. Attorneys must submit this statement to each county in which they accept appointments, and the county will forward the information contained in the attorney practice-time statements to the Texas Indigent Defense Commission. The Commission will add this information to other indigent defense information that is made available to the public via the Commission website.

In addition to this attorney reporting requirement, Texas counties will be required to report the number of appointments made to every attorney who accepts appointments in the county. When viewed together, the appointment information submitted by the county and the practice time information submitted by the attorney will provide an overview of the average amount of time an attorney allocated to the representation of each indigent client.

The Legislature also has directed the Commission to conduct and publish a study on criminal defense attorney caseloads "for the purpose of determining guidelines for establishing a maximum allowable caseload for a criminal defense attorney that . . . allows the attorney to give each indigent defendant the time and effort necessary to ensure effective representation." That study is due to be completed by January 1, 2015.

Instructions

Every year, an attorney is required to submit a practice-time statement to each county in which the attorney accepted an appointment in an adult criminal or juvenile delinquency case during a fiscal year period that begins on October 1 and ends on September 30. The statement is due no later than October 15 immediately following the close of each fiscal year. For example, if, during the fiscal year that begins on October 1, 2013 and ends on September 30, 2014, an attorney who accepts appointments in County A and County B must submit separate practice-time statements to County A and to County B by October 15, 2014.

The statement submitted to each county must describe (1) the percentage of an attorney's total practice time (time spent in legal practice in all jurisdictions) that was dedicated to work on trial and appeal appointments in adult criminal cases in that county's district and county courts during the fiscal year beginning on the preceding October 1; and (2) the percentage of an attorney's total practice time that was dedicated to work on trial and appeal appointments in juvenile delinquency cases (cases alleging delinquent conduct or conduct indicating a need for supervision) in that county's district and county courts during the fiscal year beginning on the preceding October 1.

The percentages reported in the practice-time statement submitted to each county should not include time dedicated to work on appointments to cases (such as CPS cases and guardianship cases) that

are not adult criminal or juvenile delinquency cases, and should not include time dedicated to federal criminal appointments.

The attorney may submit the practice-time statement via the Commission's electronic attorney reporting portal, on the attached Commission reporting form, or on any other physical or electronic form specified by the county that captures all of the information requested on the Commission form. A county may require attorneys who accept appointments in that county to use a specific method to submit their practice-time statements.

The Commission recognizes that attorneys who accept criminal appointments use a variety of case management systems, and attorneys are not required to use any single methodology to complete the practice-time statement. However, the statement should provide percentages that are as accurate as possible given the attorney's chosen case management system.

The Commission will also work with the criminal defense community to promulgate a worksheet that may help attorneys calculate the percentages that must be included in the practice-time statement submitted to each county. Attorneys are not required to use or submit the worksheet to the county or to the Commission.

Attorneys who keep time records for all or a portion of their caseload may use those records to calculate their practice-time percentages or, in the case of partial records, to complete some of the lines on the worksheet. Time records will provide the most accurate method for calculating practice-time percentages.

Attorneys who do not keep time records may consider using a case-counting methodology to calculate practice-time percentages. This methodology involves looking at the number and types of cases in an attorney's total caseload, and calculating practice time percentages based on the number of cases in different case type categories. An attorney may keep track of the number and types of different cases the attorney handles during an entire fiscal year, or may choose to base the calculation on the number of cases the attorney has open at a specific point in time.

For example, an attorney who is appointed to 50 adult criminal cases in County A and is retained by 50 individual clients may calculate that 50% of the attorney's practice time is dedicated to adult criminal appointments in County A, if the appointed cases and retained cases are similar in complexity. The attorney may adjust the percentages as necessary to account for any significant difference in the degree of complexity of cases in each category.

Attorneys who do not keep time records or use the case counting methodology will be encouraged to use the worksheet to help them consider all of the types of cases they handle when calculating their practice-time percentages. The worksheet will be designed to help attorneys avoid over- or under-estimating the percentage of time they spend on appointments and report to the county.

Penalties

Penalties for failing to submit a required practice-time statement by the October 15 due date may be prescribed by the judges trying criminal cases in each county. Penalties may include an attorney's removal from the list of attorneys eligible to receive future court appointments.

TEXAS INDIGENT DEFENSE COMMISSION

ATTORNEY REPORTING FORM

_____ County, Texas

Under Article 26.04(j), Code of Criminal Procedure, attorneys are required to report to each county in which they accept appointments the percentage of their total practice time that is dedicated to appointed adult criminal cases and juvenile delinquency cases in that county. This form must be submitted annually to each county no later than October 15. Please see the Attorney Reporting Instructions published by the Commission for additional information about this form.

1. During the preceding fiscal year (October 1 – September 30), ___% of my total practice time was dedicated to work on adult criminal cases in which I was appointed to represent the defendant in _____ County, Texas.
2. During the preceding fiscal year (October 1 – September 30), ___% of my total practice time was dedicated to work on juvenile delinquency cases (cases alleging delinquent conduct or conduct indicating a need for supervision) in which I was appointed to represent the juvenile in _____ County, Texas.

Attorney Name

State Bar of Texas No.

Attorney Signature

Date