



TRAFFIC OFFENSES

JUSTICE OF THE PEACE - CHAMBERS COUNTY, TEXAS

The following information is not offered as legal advice, but is procedural information only. The court and its staff cannot give legal advice. The information herein is not exhaustive. You should seek legal counsel from a licensed attorney if you have questions.

FREQUENTLY ASKED QUESTIONS

DO I HAVE TO COME TO COURT?

Defendants must either (1) appear in person (2) by mail or (3) through a lawyer hired to represent them in court. **Minors (under age 17) must appear before the court in person with a parent or guardian.** They cannot plead by mail, nor can they pay the fine at the court clerk's window.

HOW LONG DO I HAVE TO APPEAR?

Your ticket (also called a *citation*) has a date that was written in by the officer or trooper at the time citation was issued. It is called your *appearance day*. You can usually take care of your business with the court on or before your appearance day.

NOTE: *Certain offenses contain administrative dismissal provisions that require action or appearance within a specified period of time, which time may be sooner than the date set for appearance on your ticket. For example:*

The Court and its staff cannot tell you what you should do about your problem.

The *Code of Judicial Conduct* prohibits a Judge or court staff from "practicing law" (giving legal advice). The *Code* further prohibits the Justice of the Peace from engaging in communications concerning the merits of a pending judicial proceeding, or the merits of an impending claim or dispute. The Court and staff can, however, communicate concerning

- ☆ *uncontested* administrative matters
- ☆ *uncontested* procedural matters
- ☆ magistrate duties and functions

☆ **Expired Driver's License:** License must be renewed *within 20 working days of receipt of the citation.*

☆ **Expired Registration:** Registration must be renewed *not later than 20 working days after the date of the offense, and showing payment of the late fee.*

☆ **Inspection Certificate:** Inspection must be *less than 60 days* out of date and new inspection must be made *within 20 working days from date of offense.*

☆ **Driving Safety Course ("DSC"):** Must be requested *before the appearance date on the citation.*

☆ **Deferred Adjudication ("Deferred")** May be requested at any time prior to final disposition.

☆ **Failure to Maintain Financial Responsibility:** Proof of valid insurance covering the defendant driving the vehicle at the time of the offense may be produced at any time prior to final disposition..



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WHAT IF THE COURT IS CLOSED ON MY APPEARANCE DAY?

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

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

This varies according to each court's policy. Some courts will send a "courtesy letter" informing the defendant that the time to take care of the citation has expired, and warning the defendant to immediately contact the court. Other courts will immediately issue a *warrant for the defendant's arrest* for "Failure to Appear" or "Violate Promise to Appear".

In lieu of a warrant, *minors under age 17* will have the failure to appear or pay reported to the Department of Public Safety, resulting in a suspension of driving privileges.

WILL I GET ARRESTED?

If you have (1) failed to appear by your appearance date, in response to a summons to plead, or at your scheduled trial, or (2) if you have been previously found guilty, assessed a penalty, and then have not paid your fine or appealed your conviction, a warrant can issue for your arrest.

Minors: See previous question and answer.

Justice Courts have jurisdiction of:

Traffic offenses

Class C misdemeanors (punishable by fines only up to \$500)

Criminal cases punishable by fine only, or a fine and a sanction not consisting of confinement or imprisonment that is rehabilitative or remedial in nature.

CAN I GET AN EXTENSION ON MY TIME TO APPEAR?

This varies according to each court's policy. Some courts may require you to post an appearance bond to guarantee you will appear in court on a later date; sometimes a court will request that you plead in writing by mail; sometimes you can simply mail in your fine and cost money. *See also previous question and answer on "How long do I have to appear?"*

DO I NEED A LAWYER?

It is *not required* that a defendant be represented by legal counsel, although a licensed attorney can give advice about options and procedures a layman may not be aware of.

If a defendant pleads not guilty and goes to trial, however, the State of Texas will be represented by a lawyer employed by the office of the Chambers County Attorney, and a non-lawyer defendant may be at something of a disadvantage.

Defendants are certainly free to hire lawyers to represent them in Court. But if a defendant cannot afford an attorney, *no lawyer will be appointed at the State's expense*, because the offenses within the Justice Court's jurisdiction are punishable by *fine only*, (and not by imprisonment). Attorneys are only appointed at State's expense when a defendant's liberty is at risk.

WHAT IF I JUST PAY THE FINE?

If a defendant pays the fine without explanation, the Court is authorized to accept the fine and enter a conviction as though the defendant had appeared and entered a plea of "*nolo contendere*" ("*no contest*").

A minor under age 17 cannot pay the fine without appearing in Court with a parent or guardian.

WILL A CONVICTION SHOW ON MY DRIVING RECORD IN AUSTIN?

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

- ☆ All moving violations
- ☆ Driver’s license violations (Expired DL, No DL, DL Restriction/Endorsement violations, among others)
- ☆ Insurance violations.
- ☆ Some Seatbelt violations

Examples of convictions *not* reported include:

- ☆ Vehicle inspection violations
- ☆ Vehicle registration violations

A WORD OF CAUTION: CONVICTIONS ACCUMULATE!
Under the licensing provisions of the Texas Transportation Code, a person who has:

- ☆ *Four or more convictions from different transactions in 12 consecutive months; or*
- ☆ *Seven or more convictions arising from different transactions in 24 months; or*
- ☆ *Two or more convictions within 12 months while holding a “provisional license” (drivers under age 18)*

may be found to be a “habitual violator”, resulting in the temporary suspension or permanent revocation of driving privileges.

WHAT DOES A “PLEA” MEAN?

The Constitution requires that the accused be given notice of the charges filed, and given an opportunity to appear and be tried. This is known as “due process”.

Once a defendant is notified of the charges filed, the defendant enters a plea of “*guilty*” (admitting to the offense), “*nolo contendere*” (not admitting guilt, but not contesting the charges filed), or “*not*

guilty” (requiring a trial by judge or jury).

A plea of “*guilty*” or “*nolo contendere*” will result in a finding of guilt by the court, along with a penalty.

A plea of “*not guilty*” will result in a trial by judge or jury.

NOTE: *A plea of “guilty” may be used against a defendant for other purposes, such as to prove liability in a civil action for property damage arising from the same incident. A plea of “nolo contendere” cannot be used for that purpose.*

Further, if a defendant refuses to enter a plea, the court is required to enter a plea of “not guilty” on the defendant’s behalf.

Finally, a minor (under age 17) must appear before the court in person with a parent or guardian to enter a plea - it cannot be done by mail, and fines cannot be simply paid to the court clerk.

HOW ARE FINES SET?

Fines are set by the court. The published fine, (sometimes called a “window fine”), is the fine a court sets for the convenience of the public, to allow fines to be conveniently paid without going before the judge.

These fines are within a range set by the legislature for each offense. Most moving violations without a specific fine set by the legislature have a range of \$1-\$200.

Fines for speeding offenses are calculated according to the number of miles per hour over the speed limit.

Class C misdemeanors without a specific fine penalties range from \$1 to \$500.

Examples of offenses having specific fines set by the legislature include:

- ☆ Seatbelt fines range from \$50-\$200.
- ☆ Failure to maintain financial responsibility (no insurance) fines range from \$175-\$350 for the first offense and \$350-\$1,000 for subsequent offenses.
- ☆ Fines in construction or maintenance work zones are required to be **doubled** when workers are present.

In addition to the fine set by the court, court costs are set by the legislature, which vary according to the offense. For example, an offense having a \$100 fine may have court costs of \$98.10, resulting in a total penalty to the defendant of \$200.10.

CAN I TAKE A DRIVING SAFETY COURSE (“DSC”) TO HAVE THE TICKET DISMISSED?

There are two statutes that provide for dismissal after a period of deferment. Each type of deferment has different prerequisites and all require payment of court costs in advance.

Deferred adjudication means the finding of guilt is conditional. At the end of a successful period of deferment, the case is dismissed and is usually not a part of a person’s driving record (exceptions include Failure to Maintain Financial Responsibility). **Failure to pay court costs and fees or to complete a driving safety course can result in**

conviction and fine.

Driving Safety Course (“DSC”) Code of Criminal Procedure Art. 45.0511

Available:

- By request any time *at or before the appearance date on the citation*
- Only for offenses committed while operating a motor vehicle with a Class C Driver’s License.

Except for:

- Failure to stop at scene of accident involving damage to vehicle
- Failure to give information or render aid
- Reckless driving
- Overtaking school bus
- Fleeing police
- CDL-related offenses (see Code for specifics)
- Speeding 25+ mph over the posted speed limit

- Construction Zone Violations NOT eligible for Deferrals

To qualify, Defendant must:

- Have a valid Texas driver’s license or permit
- Not have taken DSC to dispose of a citation for another offense within the previous 12 months.
- Have proof of insurance valid at time of the offense
- Make an oral (in person) or written request for DSC and plead no contest or guilty
- Pay \$105, which includes court costs of \$98.00, plus DSC fee (up to \$10).
- Follow instructions provided in court’s orders
- ***Probation period last 90 days (CCP 45.0511(c) 2)***
- Provide Court satisfactory proof of completion of TEA Driving



Safety Course and a copy of defendant’s DPS driving record

Deferred adjudication under Code of Criminal Procedure 45.0551 (“Deferred”)

Available:

- For any misdemeanor case punishable by fine only
- At any time prior to final disposition of the case

To qualify, Defendant must:

- Plead guilty or no contest in person or in writing; or be found guilty by the Court
- Obtain the Court’s approval
- Pay Court costs plus “*special expense*”, (not exceeding the amount of the fine), to be posted as a bond or paid at the end of the term of deferment (at the court’s election).
- Comply with the Courts requirements (if any), which may include any “reasonable condition”
- ***Probation period lasts up to 90 days***
- Provide Court with satisfactory proof of completion of court’s requirements