

## Division VI Chamber Rules

### **Criminal Court of Davidson County, Tennessee**

Rules & Procedures | Criminal Court Clerk of Metropolitan Nashville and Davidson County

**Effective July 1, 2023**

#### **General Procedure**

1. Counsel are requested to comply with the Local Rules of the Davidson County Courts of Record, found at <https://circuitclerk.nashville.gov/local-rules-davidson-county-courts-of-record>
2. Counsel should be present at docket call or notify the Court that they will be late by contacting chambers at 615-880-3419 or [karenpbarnes@jnsnashville.gov](mailto:karenpbarnes@jnsnashville.gov) or [mwalker0@jnsnashville.gov](mailto:mwalker0@jnsnashville.gov).
3. Counsel are requested to enter contact information into CJIS once appointed or retained and to update contact information as changes occur.
4. Interpreters shall be requested by counsel in advance of hearings or trials by contacting [noemicamejo@jnsnashville.gov](mailto:noemicamejo@jnsnashville.gov) (direct line: 615-862-5939) or by completing the interpreter request form online at: <https://trialcourts.nashville.gov/interpreter/>
5. Timely communication with the Court Clerk and Division VI staff is critical in the effective and efficient organization of the dockets, and the Court requests and appreciates counsel's prompt response to all inquiries.
6. A courtesy copy of correspondence received by the Court from incarcerated defendants will be provided to the defendant's last attorney of record. Counsel is requested to communicate with the defendant, if necessary, regarding any relief sought.

#### **Preliminary Hearing Notes**

7. For the convenience of counsel and witnesses, upon agreement of counsel, the Court will in some circumstances review preliminary hearing notes of a pending case in lieu of live testimony. As a courtesy to counsel and upon timely request, Staff Attorney Smith ([shannoncsmith@jnsnashville.gov](mailto:shannoncsmith@jnsnashville.gov)) will prepare notes of the hearing for the Court's review. All requests should be emailed at least two (2) weeks in advance, along with the audio recording to be reviewed, and include the case number, preliminary hearing date, and the reason for and date of the upcoming Div. VI hearing. If more than one preliminary hearing is contained on the recording, a time stamp must be provided for the requested hearing. Notes will not be prepared for any recording longer than 45 minutes absent approval.

#### **Arraignments**

8. Counsel who are appointed to represent a client in the General Sessions courts are requested to appear on behalf of that client in Division VI at arraignment to be relieved or re-appointed.

9. Arraignments for defendants on bond are set Wednesdays at 9:00 a.m. and may proceed *via Zoom* by requesting a Zoom link not later than twenty-four (24) hours before the arraignment. All requests should be emailed to [karenpbarnes@jnsnashville.gov](mailto:karenpbarnes@jnsnashville.gov) and include the defendant's name, case number, attorney's name, BPR, and contact information. Defendants are required to appear **in person** unless a waiver is filed.
10. Arraignments for incarcerated defendants are set Wednesdays at 8:15 a.m. and may proceed by Zoom. (see #9 above for procedure)

#### **Motions / Orders [see Appendix I and II]<sup>1</sup>**

11. Courtesy copies of substantive motions shall be delivered to chambers at [shannoncsmith@jns.nashville.org](mailto:shannoncsmith@jns.nashville.org)
12. Motions requiring proof and witness testimony shall contain the words "**Witness Testimony Anticipated**" under the case number in the heading.
13. All Motions shall be set on the court docket and shall include for the Clerk's completion: "**This matter is set for hearing \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ a.m./p.m.**"
14. Pursuant to Local Rules 6 and 7, all Motions and proposed Orders, other than *ex parte* (see #22), shall be filed with the Court Clerk's office and must contain a certificate of service.
15. Only Motions that comply with Rule 12.04 of the Local Rules of Practice will be docketed.
16. If requesting that the Court review a video or audio tape before hearing, counsel shall submit the recording not less than five (5) business days prior to the hearing.
17. **Motions *in limine*** shall be filed and set for hearing not less than seven (7) days prior to trial, absent extraordinary circumstance and by leave of court, to allow for discussion at the pretrial conference. [see Trial Procedures/Appendix III]
18. All **evidentiary motions** requiring testimony made pursuant to T.R.E. 404, 405, 412, 608 or 609 must be filed at least fourteen (14) days prior to trial. [see Trial Procedures/Appendix III]
19. **Bond Motions** are generally set within ten (10) days of filing on Thursdays at 9:00 a.m.
20. Motions will be set by the Clerk after they are filed but generally: Motions filed by 4:00 p.m. Wednesday will be set the week following or next available Thursday at 9:00 a.m. unless specially set by the Court. Once motions are set, the Clerk will notify counsel for the parties.
21. Motions anticipated to last more than 90 minutes shall be specially set.
22. **Ex Parte** Motions and Orders shall be delivered to chambers in an envelope clearly marked "**EX PARTE – TO BE FILED UNDER SEAL**".
23. Pursuant to TN R S Ct Rule 13(5)(a)(1), in the trial and direct appeal of all criminal cases in which the defendant is entitled to appointed counsel, in the trial and appeals of post-conviction proceedings in capital cases involving indigent petitioners, and in juvenile transfer proceedings, in its discretion and in a reasonable amount to be determined by the Court, the Court may

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<sup>1</sup> General forms are provided as examples in the Appendices and are available on the Division VI website

determine that investigative or expert services or other similar services are necessary to ensure that the constitutional rights of the defendant are properly protected. For non-capital post-conviction proceedings, see TN R S Ct Rule 13(5)(a)(2).

24. *Ex Parte* Motions requesting funds for investigative, expert and/or other similar services shall comply with TN S Ct Rule 13 and set out specific facts and circumstances that relate the requested services to a significant issue in the defense theory, evidencing particularized need. In addition, these motions should include the anticipated services to be provided and the expert's curriculum vitae. [see sample Order to submit with the Motion/Appendix II]
25. *Ex parte* Motions requesting transcripts must set out the reason for the request and the date of the requested hearing. [see sample Order to submit with the Motion/Appendix II]
26. Agreements of counsel shall be set out in a written Agreed Order and filed with the Clerk to be submitted to the Court for approval.

### Pre-trial Procedures / Trials<sup>2</sup>

27. All cases set for trial will appear on the Thursday docket immediately preceding the trial date for an informal pretrial conference.
28. Counsel for the State and the defendant shall submit their requests for Tennessee Pattern Jury Instructions, lesser-included offenses and witness lists at the pretrial conference.
29. Discovery issues must be addressed by Motion to Compel presented to the Court not later than thirty (30) days after setting the case for trial, absent extraordinary circumstances and court permission.
30. Any pretrial motions requiring an evidentiary hearing shall be filed on or before the deadline for setting the case for trial. Failure to file such motions by this deadline/date shall constitute a waiver of the issue, except for good cause shown. [see Tenn. R. Crim. Proc. 12(f)]
31. The Court shall be provided with a copy of all notices of the State to seek the death penalty, lwop or repeat violent offenders.
32. By setting a case for trial, the attorneys are certifying that discovery is complete, that counsel will be ready to proceed and that they do not have a trial conflict. [Trial procedures can be found and are more particularly described in Appendix III.]
33. Sentencing hearings will be scheduled for the Wednesday or Thursday 1:00 p.m. docket unless specially set for another day. Counsel may submit a Sentencing Memorandum no less than seven days in advance of the sentencing hearing.
34. Pre-sentencing Investigation Reports (PSI) shall be filed not less than two (2) weeks in advance of the sentencing hearing.
35. For scheduling purposes, upon receipt of the PSI, counsel shall notify the Court of whether proof will be offered at the sentencing hearing and the anticipated number of witnesses.

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<sup>2</sup> See also Trial Procedures/Appendix III

### **Probation Violations**

36. For any probation violation hearing, the Court requires a copy of the violation warrant.
37. The attorney appointed to represent the defendant in the underlying matter is expected to continue representation for subsequent probation violations and will be notified as quickly as possible. Previously retained counsel shall promptly notify the Court if representation is not ongoing.
38. Probation violation hearings are typically set the next Wednesday following arrest.

### **Indigent Defense**

39. Attorneys interested in appointed cases should notify [karenpbarnes@jnsnashville.gov](mailto:karenpbarnes@jnsnashville.gov) of their availability prior to the Wednesday arraignment docket.
40. Indigent defense credits for up to 6 Ethics hours are available through the CLE Commission pursuant to Tennessee Supreme Court Rule 4.08. [see Appendix IV]
41. Division VI has numerous items of clothing available for use by any defendant. Please contact [karenpbarnes@jnsnashville.gov](mailto:karenpbarnes@jnsnashville.gov) to access the closet.

### **Bonding Companies**

42. It is expected that the bond company will notify each defendant of his/her arraignment date within two (2) weeks prior to arraignment date.
43. An agent from the bond company shall be present in court to give a report if the company has not received confirmation from the defendant acknowledging notice of a court date. [see Local Rules of Practice for Bail Bonds, Rule 6E]
44. For all first-time-set probation violations, the bond company shall have an agent present in court to give a report if the company has not received confirmation from the defendant acknowledging notice of the court date. [Local Rules of Practice for Bail Bonds, Rule 6E]
45. Bond Companies requesting to be relieved as surety shall present testimony in court, an affidavit or other satisfactory evidence of the facts pled.

# **APPENDIX I**

## **Davidson County Criminal Court, Division VI Chamber Rules**

[ccc.nashville.gov/court-resources/rules-procedures/](http://ccc.nashville.gov/court-resources/rules-procedures/)

<b>Criminal Court Davidson County Tennessee Division VI</b>	<h1 style="margin:0;">UNIFORM AFFIDAVIT OF INDIGENCY</h1> <p style="margin:0;">page 1 of 2</p>	<b>Case Number</b>
STATE OF TENNESSEE		vs.

COMES THE DEFENDANT AND, SUBJECT TO THE PENALTY OF PERJURY, MAKES OATH TO THE FOLLOWING FACTS:

**PART 1**

1. Full Name:		2. Social Security No:	
3. Other Names Used:		4. Date of Birth:	
5. Address:			
6. Telephone No. CELL:		HOME:	WORK:
7. Are you working anywhere? YES <input type="checkbox"/> NO <input type="checkbox"/>		If YES, Where?	
8. How much do you make? \$            per    Hour <input type="checkbox"/> Week <input type="checkbox"/> Year <input type="checkbox"/> Week <input type="checkbox"/>			
9. Do you receive any governmental assistance or pensions (disability, SSI, AFDC, etc.)? YES <input type="checkbox"/> NO <input type="checkbox"/>			
What is its value? \$                    per Week <input type="checkbox"/> Month <input type="checkbox"/> Year <input type="checkbox"/>			
10a. Do you own a house?		YES <input type="checkbox"/> NO <input type="checkbox"/>	What is its value? \$ _____
10b. Do you own a car?		YES <input type="checkbox"/> NO <input type="checkbox"/>	What is its value? \$ _____
10c. Do you own stock, bonds, etc?		YES <input type="checkbox"/> NO <input type="checkbox"/>	What is its value? \$ _____
11. Are you, or your family, going to be able to post your bond? YES <input type="checkbox"/> NO <input type="checkbox"/>			
12. Are you, or your family, going to hire a private attorney? YES <input type="checkbox"/> NO <input type="checkbox"/> If Yes, Who?			
13. Are you now in custody? YES <input type="checkbox"/> If YES, how long have you been in custody? _____			
NO <input type="checkbox"/> I am out under a total amount of bond of \$ _____ made by _____ Bonding Company.			
The money paid to get me out on bond was \$ _____ and it was paid by _____			
If the defendant is in custody, unable to make bond and the answers to questions one (1) through eleven (11) make it clear that the defendant has no resources to hire a private attorney, skip Part 2 and complete Part 3. If Part 2 is to be completed, do not list items already listed in Part I.			

**PART 2**

14. Dependents: Please list the name, age and relationship to you.

Full Name	Age	Relationship	Do they live with you?	Do you pay court order support?

15. If you have met with an Attorney, please list their names:

Name	Name	Name

6. All my income from all sources (including, but not limited to wages, interest, gifts, AFDC, SSI, social security, retirement, disability, pension, unemployment, alimony, worker's compensation, etc.):

How Much?	How Often?	From Whom?
\$		
\$		

7. All money available to me from any source:

A. Cash? \$ \_\_\_\_\_

B. Checking, Saving, or CD Account(s)-give bank, acct. no., balance: \$ \_\_\_\_\_

C. Debts owed to me: \$ \_\_\_\_\_

D. Credit Card Type: \_\_\_\_\_ Credit Limit: \$ \_\_\_\_\_ Amount Owed: \$ \_\_\_\_\_

E. Jewelry: YES  NO  Value: \$ \_\_\_\_\_

F. Other: \_\_\_\_\_

8. All vehicles/vessels owned by me, solely or jointly, within the last six months (including cars, trucks, motorcycles, farm equip., boats etc.):

Type/Description	Value	Amount Owed

9. All real estate owned by me, solely or jointly, within the last six months (including land, lots, houses, mobile homes, etc.):

Type/Description	Value	Amount Owed

10. All assets or property not already listed owned within the last six months or expected in the future:

Type/Description	Value	Amount Owed

11. The last income tax return I filed was for the year \_\_\_\_\_ and it reflected a net income of \$ \_\_\_\_\_.  
I will file a copy of same within one week if required.

**PART 2**

2. Acknowledging that I am still under oath, I certify that I have listed in Parts I and II all assets in which I hold or expect to hold any legal or equitable interest.

3. I am financially unable to obtain the assistance of a lawyer and request the court to appoint a lawyer for me.

4. I understand that it is a Class A misdemeanor for which I can be sentenced to jail for up to 11 months 29 days or be fined up to \$2500.00 or both if I intentionally or knowingly misrepresent, falsify, or withhold any information required in this affidavit. I also understand that I may be required by the Court to produce other information in support of my request for an attorney.

Date Signed: \_\_\_\_\_ Signature of Defendant: \_\_\_\_\_

Sworn to and Subscribed Before me

on this \_\_\_ day \_\_\_\_\_ of 20\_\_.

Clerk: \_\_\_\_\_

\_\_\_\_\_  
Cynthia Chappell, Judge

Therefore, the Court appoints Attorney \_\_\_\_\_ to represent the above-named individual.

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

VS.

\_\_\_\_\_

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CASE NO. \_\_\_\_\_

**ORDER OF INDIGENCY**

After due consideration and for good cause, this Court finds that the Defendant is indigent and unable to assume financial responsibility for the above-referenced case. Accordingly, this Court:

- \_\_\_\_\_ Waives all Fees
- \_\_\_\_\_ Waives Court Costs and Jail Fees (but not other fines and cost)
- \_\_\_\_\_ Waives ALL costs, fines, litigation fees, taxes and other fees associated with this case
- \_\_\_\_\_ ORDERS a payment plan for all remaining costs, taxes, and fees, The Defendant shall pay into the Criminal Court Clerk's Office, the amount of \$ \_\_\_\_\_ per month until the amount is paid in full beginning on or before \_\_\_\_\_.

Furthermore, with the goal of the Defendant having a Driver's License, this Court hereby ORDERS the Davidson County Criminal Court Clerk's Office to:

- \_\_\_\_\_ Rescind the notice to the Department of Safety to revoke the Defendant's driver's license, if such notice was sent.
- \_\_\_\_\_ Issue a Stay enjoining the Clerk's Office from notifying Department of Safety about the Defendant's debt in this case. This Stay prohibits the Clerk's Office from taking any action to revoke the Defendant's driver's license for failure to pay court costs in this matter, notwithstanding further Orders from this Court.

**IT IS SO ORDERED.**

Entered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Cynthia Chappell, Judge  
Criminal Court, Division VI



**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

**STATE OF TENNESSEE**

v.

\_\_\_\_\_  
**Defendant.**

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**CASE NO:** \_\_\_\_\_

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**ORDER FINDING THE DEFENDANT INDIGENT FOR PURPOSES OF  
T.C.A. § 40-35-313 (APPLICATION FEE) AND ORDERING PRODUCTION OF  
CERTIFICATE TO DEFENSE COUNSEL**

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This Honorable Court, pursuant to T.C.A. § 40-35-313 and for good cause shown, hereby finds the above-named defendant to be indigent for purposes of the diversion application fee.

Further, the Tennessee Bureau of Investigation shall provide, without delay, a copy of the diversion certificate to defense counsel of record listed on the application.

**SO ORDERED AND ENTERED this** \_\_\_\_\_ **day of** \_\_\_\_\_, **20** \_\_\_\_\_.

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**Cynthia Chappell, Judge**  
Criminal Court, Division VI

IN THE \_\_\_\_\_ COURT FOR \_\_\_\_\_ COUNTY  
STATE OF TENNESSEE

vs. Case/Docket No. \_\_\_\_\_  
or  
Warrant No. \_\_\_\_\_

Defendant \_\_\_\_\_  
DOB: \_\_\_\_\_

**UNIFORM AFFIDAVIT OF INDIGENCY**  
**FOR PURPOSES OF ELECTRONIC MONITORING INDIGENCY FUND**  
**(T.C.A. § 55-10-419)**

Comes the defendant and, subject to the penalty of perjury, makes oath to the following facts (please list, circle, complete, etc.):

1. Full name: \_\_\_\_\_  
List any other names you have used: \_\_\_\_\_
2. Address: \_\_\_\_\_
3. Telephone Nos.: (Home/Cell) \_\_\_\_\_ (Work) \_\_\_\_\_
4. Are you working? ( ) Yes ( ) No If yes, where? \_\_\_\_\_
5. How much money do you make? \$ \_\_\_\_\_ per hour/day/week/month/year (circle one)
6. Do you have any income other than the income listed above? ( ) Yes ( ) No  
If yes, list the total amount. \$ \_\_\_\_\_  
Remember, possible sources include, but are not limited to the following: interest, gifts, AFDC, SSI, social security, retirement, disability, pension, unemployment, alimony, and workers' compensation.
7. Your total annual income after taxes is \$ \_\_\_\_\_
8. Number of persons in your family/household: \_\_\_\_\_
9. Acknowledging that I am ~~still~~ under oath, I certify that I have listed above all income I receive.
10. By signing this form, I agree to file a copy of my most recent income tax return if requested by the court.
11. I understand that, pursuant to the perjury offense set out in T.C.A. § 39-16-702, it is a Class A misdemeanor for which I can be sentenced to jail for up to 11 months, 29 days or be fined up to \$2,500, or both, if I intentionally misrepresent, falsify or withhold any information required in this affidavit. I also understand that I may be required by the Court to produce other information in support of my request to be declared indigent for purposes of using the electronic monitoring indigency fund.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Signature of Defendant

Sworn to and Subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Signature of Judge/Clerk

## Order Regarding Indigency Determination for Purposes of Payment by the Electronic Monitoring Indigency Fund

\_\_\_\_ I hereby find that the above-named defendant is NOT indigent and does not qualify for financial assistance to pay costs associated with a functioning ignition interlock device, transdermal monitoring device, or alternative alcohol or drug monitoring device.

OR

\_\_\_\_ I hereby find that the above-named defendant receives an annual income, after taxes, of 185% or less of the poverty guidelines updated periodically in the federal register by the United States Department of Health and Human Services under the authority of 42 U.S.C. § 9902(2), and that the defendant is therefore indigent and, subject to availability of funds, qualifies for financial assistance to pay costs associated with a functioning ignition interlock device, transdermal monitoring device, or alternative alcohol or drug monitoring device.

***If defendant is declared indigent, complete the next sections:***

1.

\_\_\_\_ Defendant is found to have the ability to pay a portion of the costs associated with the required device, and is ordered to pay \$\_\_\_\_\_, pursuant to T.C.A. §55-10-419(b).

\_\_\_\_ Costs associated with the required device in the amount of \$\_\_\_\_\_, (not to exceed \$200/month, per device) will be reimbursed to the provider by the electronic monitoring indigency fund.

The total cost of the required device is \$\_\_\_\_\_.

2. Length of time the defendant is ordered to use/wear the device: \_\_\_\_\_

3. Number of devices the defendant is ordered to use/wear: \_\_\_\_\_

4. Type of device(s) ordered:

\_\_\_\_ Ignition interlock device

\_\_\_\_ Transdermal monitoring device

\_\_\_\_ Other alternative alcohol or drug monitoring device (List type of device: \_\_\_\_\_  
\_\_\_\_\_)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Judge

**\*\*\*\*\* The defendant must submit a copy of this form to the device provider before installation of the ignition interlock device, transdermal monitoring device, or alternative alcohol or drug monitoring device; and the device provider must submit a copy of this form to the state treasurer prior to being reimbursed, along with a copy of the signed court order indicating that the use of the device(s) has been ordered by the Court. Pursuant to T.C.A. § 55-10-419(a)(1)(C), no more than two hundred dollars (\$200.00) per month shall be expended from the fund to pay the costs associated with the device.**

# ORDER FOR TRANSCRIPT FOR INDIGENT DEFENDANT

In the Criminal Court for \_\_\_\_\_ County, Tennessee

STATE OF TENNESSEE

CASE NO.(S) \_\_\_\_\_

VS.

CHARGE \_\_\_\_\_

\_\_\_\_\_  
DEFENDANT

## PURPOSE OF REQUEST

- APPEAL (Transcript DUE 60 days from date Notice of Appeal filed)
- OTHER (Date needed by \_\_\_\_\_)

## REQUEST FOR THE TRANSCRIPT OF EVIDENCE

- |   |               |   |               |
|---|---------------|---|---------------|
| <input type="checkbox"/> Preliminary Hearing    | Date(s) _____ | <input type="checkbox"/> Jury Charge          | Date(s) _____ |
| <input type="checkbox"/> Pre-Trial Motion(s)    | Date(s) _____ | <input type="checkbox"/> Sentencing Hearing   | Date(s) _____ |
| <input type="checkbox"/> Voir Dire              | Date(s) _____ | <input type="checkbox"/> Motion for New Trial | Date(s) _____ |
| <input type="checkbox"/> Opening Statement(s)   | Date(s) _____ | <input type="checkbox"/> Post-Trial Motion(s) | Date(s) _____ |
| <input type="checkbox"/> Trial Testimony        | Date(s) _____ | <input type="checkbox"/> Other                | Date(s) _____ |
| <input type="checkbox"/> Closing Argument(s)    | Date(s) _____ |   |               |
| <input type="checkbox"/> Special Instruction(s) | _____         |   |               |

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the court reporter of this Court shall prepare a transcript of all requested proceedings and that the cost of said transcript be incurred by the State.

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge

## ATTORNEY'S CERTIFICATE OF MAILING

I certify that on \_\_\_\_\_, 20\_\_\_\_, I mailed a true copy of the Order for Transcript for Indigent Defendant to the court reporter, \_\_\_\_\_ at the address listed below:

Mailing address: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Requesting Attorney

\_\_\_\_\_  
Printed Name of Requesting Attorney

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Telephone Number

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

v.

\_\_\_\_\_  
Defendant

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CASE NO. \_\_\_\_\_

**ORDER TO SET OR MODIFY BOND**

This matter came to be heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for consideration of bond or a modification in the bond amount and/or conditions previously set in this cause. Based on the proof offered and the record before the Court, the Court hereby incorporates its oral findings by reference hereto, as if set forth verbatim herein, and **ORDERS:**

\_\_\_\_\_ The bond amount shall be set at \$\_\_\_\_\_.

\_\_\_\_\_ Defendant shall be subject to the following special requirements as a condition of a surety bond being posted, said requirements to remain in effect until further orders of this Court:

Defendant shall be placed on:

- \_\_\_\_\_ Electronic Monitoring
- \_\_\_\_\_ GPS (\$70/wk)
- \_\_\_\_\_ SCRAM (\$84/wk)
- \_\_\_\_\_ Remote breathalyzer (\$56/wk)
- \_\_\_\_\_ Avertest
- \_\_\_\_\_ High frequency
- \_\_\_\_\_ Medium frequency
- \_\_\_\_\_ Low frequency

Defendant shall be subject to:

- \_\_\_\_\_ Residence restrictions:
- \_\_\_\_\_ Reside only at: \_\_\_\_\_
- \_\_\_\_\_ House arrest
- \_\_\_\_\_ Curfew from \_\_\_\_\_ AM/PM to \_\_\_\_\_ AM/PM
- \_\_\_\_\_ Geographic restrictions as follows:
  - \_\_\_\_\_ Stay away from the alleged victim(s)
  - \_\_\_\_\_ No contact with \_\_\_\_\_
  - \_\_\_\_\_ Be subject to random drug and alcohol screens
  - \_\_\_\_\_ Maintain fulltime employment or fulltime school
  - \_\_\_\_\_ Refrain from alcohol and drug use
  - \_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ The previously ordered bond amount(s) and/or bond conditions, unless otherwise modified herein, shall remain in full force and effect.

\_\_\_\_\_ The total bond amount is greater than \$75,000; therefore, in accordance with Davidson County Local Rules, a separate source hearing is required unless specifically waived herein.

\_\_\_\_\_ Upon sufficient evidence having been presented or agreement of counsel as announced in open court, the source hearing is waived.

**ORDERED AND ENTERED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Cynthia Chappell, Judge**  
**Criminal Court, Division VI**

**CERTIFICATE OF SERVICE**

I hereby certify that on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, a true and exact copy of the foregoing has been served upon the following:

\_\_\_\_\_  
Office of the District Attorney  
State of Tennessee

Email: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant

Email: \_\_\_\_\_

\_\_\_\_\_  
Court Clerk

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE	)	
	)	
v.	)	CASE NO. _____
	)	
_____	)	
Defendant	)	

**AGREED ORDER MODIFYING BOND AND/OR CONDITIONS OF RELEASE**

This matter is before the Court upon a Motion for a change in bail or other conditions of release, and it appears to the Court that an agreement has been reached between the State of Tennessee and the Defendant to modify Defendant's bail and/or conditions previously set in this cause, as evidenced by signatures of respective counsel hereinbelow. Pursuant to *Tenn. Code Ann. § 40-11-101 et seq.*, the said agreement provides for the least onerous conditions reasonably likely to assure the appearance of the defendant, while at the same time protecting the safety of the public, and is well-taken.

THEREFORE, it is **ORDERED, ADJUDGED AND AGREED** that the total bond in the above-styled cause is set at \$ \_\_\_\_\_.

It is further **ORDERED, ADJUDGED AND AGREED** that the Defendant shall be subject to the following special requirements as a condition of a surety bond being posted, said requirements to remain in effect until further orders of this Court, as follows:

- Defendant shall be placed on:
- \_\_\_\_\_ Electronic Monitoring
  - \_\_\_\_\_ GPS (\$70/wk)
  - \_\_\_\_\_ SCRAM (\$84/wk)
  - \_\_\_\_\_ Remote breathalyzer (\$56/wk)
  - \_\_\_\_\_ Avertest
  - \_\_\_\_\_ High frequency
  - \_\_\_\_\_ Medium frequency
  - \_\_\_\_\_ Low frequency

- Defendant shall be subject to:
- \_\_\_\_\_ Residence restrictions:
  - \_\_\_\_\_ Reside only at: \_\_\_\_\_
  - \_\_\_\_\_ House arrest
  - \_\_\_\_\_ Curfew from \_\_\_\_\_ AM/PM to \_\_\_\_\_ AM/PM

\_\_\_\_\_ Geographic restrictions as follows:  
\_\_\_\_\_  
\_\_\_\_\_ Stay away from the alleged victim(s)  
\_\_\_\_\_ No contact with \_\_\_\_\_  
\_\_\_\_\_ Be subject to random drug and alcohol screens  
\_\_\_\_\_ Maintain fulltime employment or fulltime school  
\_\_\_\_\_ Refrain from alcohol and drug use  
\_\_\_\_\_ Other \_\_\_\_\_

\_\_\_\_\_ The previously ordered bond amount(s) and/or bond conditions, unless otherwise modified herein, shall remain in full force and effect.

\_\_\_\_\_ The total bond amount is greater than \$75,000; therefore, in accordance with Davidson County Local Rules, a separate source hearing is required unless specifically waived herein.

\_\_\_\_\_ Upon agreement of counsel, the source hearing is waived.

**ORDERED AND ENTERED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Cynthia Chappell, Judge**  
**Criminal Court, Division VI**

APPROVED FOR ENTRY:

\_\_\_\_\_  
Office of the District Attorney  
State of Tennessee  
BPR: \_\_\_\_\_  
Email: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant  
BPR: \_\_\_\_\_  
Email: \_\_\_\_\_



**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE )  
 )  
v. ) CASE NO. \_\_\_\_\_  
 )  
 )  
\_\_\_\_\_)  
Defendant )

**ORDER APPROVING BOND SOURCE**

This matter is before the Court pursuant to Tenn. Code Ann. § 39-11-715 and Davidson County Criminal Court Local Rules of Practice for Bail Bonds R. 10 regarding the source of the bond or premium to be posted by the aforementioned Defendant. Upon the evidentiary hearing, statements of counsel, and the entire record before the Court, the Court incorporates its oral findings as if set forth verbatim herein, and upon the evidence presented, the Court finds that it does not appear that the Defendant is using proceeds derived from a criminal offense to pay the premium and is satisfied with the source to finance the bond.

Therefore,

\_\_\_\_\_ Bonding Company will make the bond;

\_\_\_\_\_ The address of the real property pledged and/or securing the bond is \_\_\_\_\_, and the appraised value or equity of the property is equal to not less than one and one-half times the amount of the bond;

\_\_\_\_\_ The cash bond in the amount of \$ \_\_\_\_\_ has been deposited with the Clerk pursuant to T.C.A. § 40-11-118 and shall be returned subject to any fines, court costs or restitution as ordered by the Court.

It hereby is **ORDERED AND ADJUDGED** that the Defendant's source to finance the bond or premium shall be and is accepted.

**ENTERED** this day \_\_\_\_ of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Cynthia Chappell, Judge  
Criminal Court, Division VI

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a true and exact copy of the foregoing has been served upon the following:

\_\_\_\_\_, ADA State of Tennessee  
Email: \_\_\_\_\_

\_\_\_\_\_, Attorney for Defendant  
Email: \_\_\_\_\_

\_\_\_\_\_  
Clerk

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

v.

\_\_\_\_\_ )  
Defendant )

)  
)  
)  
)  
)  
)

CASE NO. \_\_\_\_\_

**AGREED ORDER OF BOND SOURCE**

This matter is before the Court pursuant to Tenn. Code Ann. § 39-11-715 and Davidson County Criminal Court Local Rules of Practice for Bail Bonds R. 10 regarding the source of the bond or premium to be posted by the aforementioned Defendant. It appears to this Court that the State of Tennessee is satisfied with the source to finance the bond without an evidentiary hearing and has reached an agreement with the Defendant, as indicated by signature of counsel hereinbelow, in that:

\_\_\_\_\_ \_\_\_\_\_ Bonding Company will make the bond;

\_\_\_\_\_ The address of the real property pledged and/or securing the bond is \_\_\_\_\_, and the appraised value or equity of the property is equal to not less than one and one-half times the amount of the bond;

\_\_\_\_\_ The cash bond in the amount of \$ \_\_\_\_\_ has been deposited with the Clerk pursuant to T.C.A. § 40-11-118 and shall be returned subject to any fines, court costs or restitution as ordered by the Court.

Therefore, it hereby is **ORDERED AND ADJUDGED** that the agreement regarding the Defendant's source to finance the bond or premium shall be and is accepted.

ENTERED this day \_\_\_\_ of \_\_\_\_\_, 20 \_\_\_\_.

---

Cynthia Chappell, Judge  
Criminal Court, Division VI

APPROVED FOR ENTRY:

---

Attorney for State

BPR No. \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

---

Attorney for Defendant

BPR No. \_\_\_\_\_

Phone \_\_\_\_\_

Email \_\_\_\_\_

IN THE \_\_\_\_\_ COURT FOR DAVIDSON COUNTY

DIVISION \_\_\_\_\_

STATE OF TENNESSEE

\*  
\*  
\*  
\*  
\*

VS.

CASE NO(S): \_\_\_\_\_

DOB: \_\_\_\_\_

ORDER

The above-styled matter was before the Judge on \_\_\_\_\_. [After the hearing] [Upon agreement of the Parties] the Judge finds that the defendant should be placed on the following condition(s):

- GPS (\$70 /week)
- SCRAM (\$84/week)
- Remote Breath (\$56 /week)
- Drug Patch (\$98 /patch)

For a period of \_\_\_\_\_

Beginning \_\_\_\_\_

Bail Conditions:

- House arrest
- Curfew from \_\_\_\_\_ am/pm to \_\_\_\_\_ am/pm
- Geographic restrictions as follows: \_\_\_\_\_
- Reside at \_\_\_\_\_
- Stay away from alleged victim(s): \_\_\_\_\_
- Be subject to random drug screens
- Maintain full-time employment
- Refrain from alcohol and drug use
- Driving Restrictions: \_\_\_\_\_
- Other \_\_\_\_\_

Indigent *(if this box is checked, fill out the next section completely)*

- Portion State to pay \$ \_\_\_\_\_ (not to exceed \$200 per month, per device)
- Portion Offender to pay \$ \_\_\_\_\_.
- Length of time of device use: \_\_\_\_\_.

The defendant is responsible for all costs related to the program which must be paid weekly. Unless indigent, then the defendant is responsible for cost related to the program noted above as "portion offender," which must be paid weekly. Failure to comply with the payment condition will result in reincarceration.

The defendant is responsible for following all conditions ordered by the Court. Failure to comply will result in revocation of the bond. By signing this Order, the defendant acknowledges the conditions and the consequences for failing to abide by the conditions.

The District Attorney General is responsible for providing accurate information to the monitoring company for individuals the defendant is ordered not to contact, including the work and home addresses if there are geographical restrictions included.

By agreeing to secure defendant's bond, the bonding company shall transport the defendant to the monitoring company located in the Birch Building 2nd floor, upon release from jail to have the monitoring device activated during normal office hours of Monday through Friday, 8 am to 3:30 pm.

The Criminal Court Clerk shall release the defendant only to a representative of the bonding company Monday through Friday between 7:00 am and 3:00 pm.

The bonding company is to surrender the defendant to the custody of the Davidson County Sheriff's Office upon notification by the monitoring company of any violations of the Court Order. By signing this Order, the bonding company acknowledges the conditions of bond and its responsibility to surrender the defendant as soon as possible after notification by the monitoring company. Failure to respond to violations in a timely manner may result in suspension of bond privileges and for other penalties as deemed appropriate by the Court.

ENTER THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge, Division \_\_\_\_\_  
\_\_\_\_\_ Court

**Acknowledgements**

I certify that I have read the above order and agree to abide by all conditions stated.

\_\_\_\_\_  
District Attorney General

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contact Number

\_\_\_\_\_  
Contact Number

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Bonding Company Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Bonding Company

\_\_\_\_\_  
Contact Information

\_\_\_\_\_  
Date

\_\_\_\_\_  
Contact Information

**IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE )

VS. )

\_\_\_\_\_  
**Defendant.**

)  
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Case No. \_\_\_\_\_

**ORDER DIRECTING FORENSIC EVALUATION (FELONY)**

This cause came to be heard on \_\_\_\_\_ before the Honorable Cynthia Chappell, Judge of Division VI, Criminal Court. It is hereby **ORDERED** by this Honorable Court pursuant to T.C.A. § 33-7-301(a) that the defendant is referred to the Vanderbilt University Forensic Evaluation Team for the following forensic evaluation(s):

(Check one or both)

- Competency to Stand Trial:** The staff shall assess whether the defendant understands the nature of the legal process and the charges pending against him/her, whether the defendant recognizes the consequences that can follow from the charges, and whether the defendant is capable of assisting counsel and participating in his/her defense.
  
- Mental Condition at the Time of Crime (Insanity Defense):** The staff shall assess whether the defendant at the time of the criminal conduct, as a result of a severe mental disease or defect was unable to appreciate the wrongfulness of his/her conduct. The terms "mental disease or defect" do not include any abnormality manifested only by repeated criminal or otherwise antisocial conduct.

THEREFORE, IT IS ORDERED:

1. That the Court Clerk provide the Vanderbilt Forensic Evaluation Team with a copy of this order.
  
2. That the District Attorney General, Defense Attorney and Sheriff provide pertinent information to the Vanderbilt University Forensic Evaluation Team for the above indicated evaluation(s).
  
3. That the Vanderbilt University Forensic Evaluation Team perform the indicated evaluation and report its findings to this Court.

\_\_\_\_\_  
**Cynthia Chappell, Judge**

APPROVED FOR ENTRY:

\_\_\_\_\_  
DEFENSE ATTORNEY

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

\_\_\_\_\_  
DISTRICT ATTORNEY GENERAL

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

**NOTICE TO DEFENDANT REQUIRED BY T.C.A. §55-10-411**

The punishment provided by law for conviction of **Driving Under the Influence of an Intoxicant, Second Offense is confinement for not less than forty-five (45) days nor more than eleven (11) months, twenty-nine (29) days in the county jail or workhouse** and a fine of not less than six hundred dollars (\$600) nor more than three thousand five hundred dollars (\$3,500) and revocation of driving privileges for a period of two (2) years; the driver may apply for a restricted license. The vehicle used in the commission of a second or subsequent offense is subject to seizure and forfeiture in accordance with T.C.A. §40-33-203, §40-33-204, and §55-10-411.

The punishment provided by law for conviction of a **Third Offense is confinement for not less than one hundred twenty (120) consecutive days nor more than eleven (11) months, twenty-nine (29) days in the county jail or workhouse** and a fine of not less than eleven hundred dollars (\$1,100) nor more than ten thousand dollars (\$10,000) and revocation of driving privileges for a period of six (6) years.

The punishment provided by law for conviction of a **Fourth Offense is confinement for not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class E Felony (1 – 6 Years)** and a fine of not less than three thousand dollars (\$3,000) nor more than fifteen thousand dollars (\$15,000) and revocation of driving privileges for a period of eight (8) years.

The punishment provided by law for conviction of a **Fifth Offense is confinement for not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class D Felony (2 – 12 Years)** and a fine of not less than three thousand dollars (\$3,000) nor more than fifteen thousand dollars (\$15,000), revocation of driving privileges for a period of eight (8) years, and all collateral consequences, including interlock, transdermal and other monitoring devices, substance abuse assessments, in-patient or out-patient treatment, drug court or DUI court, and conditions of probation shall also apply.

The punishment provided by law for conviction of a **Sixth or Subsequent Offense is confinement for not less than one hundred fifty (150) consecutive days nor more than the maximum punishment authorized for the appropriate range of a Class C Felony (3 – 15 Years)** and a fine of not less than three thousand dollars (\$3,000) nor more than fifteen thousand dollars (\$15,000), revocation of driving privileges for a period of eight (8) years, and all collateral consequences, including interlock, transdermal and other monitoring devices, substance abuse assessments, in-patient or out-patient treatment, drug court or DUI court, and conditions of probation shall also apply.

A person convicted of a third or subsequent offense shall pay all costs associated with an ignition interlock device, transdermal monitoring device, global positioning monitoring system, or any other monitoring device and is not eligible for electronic monitoring indigency fund assistance under this part, regardless of whether the person is indigent.



All persons sentenced under this part, in addition to service of at least the minimum sentence, shall be required to serve the difference between the time served and the maximum sentence on probation.

If at the time of the offense, you are accompanied by a child under eighteen (18) years of age, your sentence shall be enhanced by a mandatory minimum period of incarceration of thirty (30) days which shall be served in addition to any period of incarceration received for the violation of T.C.A. §55-10-401. If the child suffers serious bodily injury as the proximate result of the violation, it is a Class D felony and shall be punished as provided in T.C.A. §39-13-106 for vehicular assault. If the child is killed as the proximate result of the violation, it is a Class B felony and shall be punished as provided in T.C.A. §39-13-213(b)(2) for vehicular homicide involving intoxication.

You also may be required to pay restitution to any person suffering physical injury or personal losses as a result of such offense(s), if you are economically capable of making such restitution; this shall be imposed as a condition of probation under T.C.A. §55-10-410.

You also are informed that a conviction for the offense of driving under the influence of an intoxicant committed in another state shall be used to enhance the punishment for a violation of driving under the influence of an intoxicant committed in this state.

You further are informed that should you be required or elect to operate a vehicle equipped with an ignition interlock device, you must comply with the rules thereof or you may be subject to further or additional penalties.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My signature below is an acknowledgment that I received a copy of this notice and have been advised of the penalties for Second and Subsequent Convictions, pursuant to T.C.A. §55-10-411.

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
COUNSEL FOR DEFENDANT

DATED: \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Cynthia Chappell, Judge  
Criminal Court, Division VI

[Empty rectangular box]

IN THE \_\_\_\_\_ COURT IN AND FOR  
\_\_\_\_\_ COUNTY, TENNESSEE  
\_\_\_\_\_ JUDICIAL DISTRICT

STATE OF TENNESSEE vs. \_\_\_\_\_

Date of Birth \_\_\_\_/\_\_\_\_/\_\_\_\_

**ORDER**

The Court finds that the defendant has been convicted of:

1. \_\_\_\_\_ A current non-violent misdemeanor conviction or a non-violent felony offense where the offender is sentenced to supervised probation pursuant to Tennessee Code Annotated (TCA) § 40-35-303(d) and has past criminal history caused by drug use and/or addiction. (Documentation of the conviction that makes the offender eligible for the SPOT program must be attached)

OR

2. \_\_\_\_\_ A violation of the Tennessee Drug Control Act and a current non-violent criminal conviction where the offender is sentenced to supervised probation pursuant to TCA § 40-35-303(d) and has past criminal history caused by drug use and/or addiction. (Documentation of the conviction that makes the offender eligible for the SPOT program must be attached)

The Court further finds that the defendant is indigent pursuant to TCA § 55-10-403(a)(4)(B) for the purpose of receiving alcohol and drug addiction treatment services through the SPOT program.

The defendant is hereby ordered to undergo:

- An alcohol and drug assessment;
- Alcohol and drug treatment; or
- Both an alcohol and drug assessment and treatment.

ENTERED this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature of the Judge: \_\_\_\_\_

Please Print the Judge's Name here: \_\_\_\_\_

Attachments: Copy of the Judgment



**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

v.

\_\_\_\_\_  
Defendant

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)  
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CASE NO. \_\_\_\_\_

**JAIL CREDIT ORDER**

This matter came before the Court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ upon Defendant's request for jail credit on the above stated case. After taking the entire record into consideration, the Court finds good cause that the Defendant be granted jail credit as allowed under the law. Therefore, the Court ORDERS that the following jail credit be applied to the above stated case:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IT IS SO ORDERED.**

Entered this day \_\_\_\_ of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Cynthia Chappell, Judge  
Criminal Court, Division VI

**TWENTIETH JUDICIAL DISTRICT  
DAVIDSON COUNTY, TENNESSEE**

DIVISION \_\_\_\_\_

STATE OF TENNESSEE

VS.

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DOCKET NO. \_\_\_\_\_

**PETITION TO ENTER PLEA OF GUILTY**

I, the above named defendant, pursuant to Rule 11 of the Tennessee Rules of Criminal Procedure, respectfully state to the Court as follows:

1. My full legal name is \_\_\_\_\_.
2. I am represented in this case by a lawyer and the name of my attorney is \_\_\_\_\_.
3. I received a copy of the indictment or information, which states the charge(s) against me, before I was required to plead to the charge(s). I have read and discussed the indictment or information with my attorney.
4. I have told my lawyer everything I know about the facts and circumstances surrounding the charge(s) against me.
5. My lawyer has told me and I understand the definitional elements of the crime(s) I am charged with; that is, my lawyer has explained to me what the State has to prove beyond a reasonable doubt to convict a person of the offense(s).

My attorney has also informed me in detail and I understand what the State's evidence against me would be in regard to the charge(s).

My lawyer has explained all possible defenses I might have.

My attorney has counseled and advised me on all of these matters and I understand them.

Thus, I believe I presently understand every charge against me.

6. My attorney has told me and I understand that the punishment I could receive, including both possible incarceration and/or fine, is:

[Set our range of punishment for offense(s) charged and pleaded to, if different.]

7. My attorney has explained that the Court will consider each count of each indictment or information to which I plead "GUILTY" as a separate offense, and may order that I serve the sentences for multiple offenses consecutively, that is, one after the other.
8. I understand that in making its sentencing determination the Court will consider all of my prior criminal convictions.
9. I understand that the Court's authority to impose punishment is the same if I plead "GUILTY" as it is if I plead "NOT GUILTY", have a jury trial, and am convicted.
10. My attorney has discussed with me whether I am eligible for alternative sentencing, including probation. I understand my attorney's statements on this issue. Although, if eligible, I hope to receive probation or other alternative sentencing, I agree to accept any punishment which the law permits the Court to impose.
11. I understand that the Tennessee Constitution guarantees me the right to have any fine greater than fifty dollars (\$50.00) set by a jury. I wish to give up that right and want the Court to set any fine which is part of my punishment.

12. My attorney has explained enhanced sentencing to me, and I understand that if I am presently eligible for enhanced sentencing, I have a statutory right to a delay of ten (10) days after the State files a notice of intent to seek enhanced punishment before the Court accepts my plea of "GUILTY". I hereby acknowledge that I am subject to enhanced sentencing as a multiple, persistent and/or career criminal, and give up my right to the filing of such notice and/or to some or all of the ten (10) day waiting period before conviction.

13. I understand that my plea of "GUILTY" will be a criminal conviction on my record, and that if I am convicted of any crimes in the future, this conviction may be used against me as a basis for giving me greater punishment for the future conviction(s) as a multiple, persistent and/or career offender.

14. I understand that I am presumed innocent of the charge(s) against me, and if I went to trial, the presumption would remain with me throughout the trial unless and until overcome by all of the evidence presented by the State.

15. I understand that I have the right to plead "NOT GUILTY" to any offense(s) charged against me and to persist in that plea, and that if I choose to plead "NOT GUILTY" the Constitution guarantees me (a) the right to a speedy and public trial by jury; (b) the right to see, hear and cross-examine all witnesses against me; (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses, in my favor; (d) the right to have the assistance of counsel in my defense at all stages of the proceedings; and (e) the right to remain silent and not testify, and that my silence cannot be used against me. I understand that if I plead "GUILTY" I will be waiving my right to a jury trial and to the other rights set out above.

16. I understand that by pleading "GUILTY", I am giving up the right I would have if I were convicted by a jury to have an appellate court review the basis of my conviction.

17. I understand that in conjunction with my plea of "GUILTY" I may be asked questions about the offense(s) and if I answer those questions under oath, on the record, and in the presence of my attorney, and do not tell the truth, my answers could later be used against me in a prosecution for perjury, which is a crime punishable by incarceration and/or fine.

18. I declare that no government officer or agent (federal, state or local), or any other person, has made any promise or suggestion of any kind in exchange for my plea of "GUILTY", with the exception of the agreement between me and the State's attorney to recommend to the Court the plea and punishment set out in paragraph twenty-two (22) below.

19. I declare that no person has pressured, forced, threatened, or intimidated me into pleading "GUILTY".

20. I believe my lawyer has done everything any lawyer could have done to represent me and I am satisfied with my legal representation and assistance in this case. I have had no problem communicating with my attorney.

21. I declare that during my discussions with my lawyer about this case, and while I read and/or discussed this petition with my lawyer, I was not under the influence of any alcoholic beverage or intoxicating drug.

22. I know that the Court will not ordinarily accept a plea of "GUILTY" from anyone who claims to be innocent, and with that in mind, and because I make no claim of innocence, I wish to plead "GUILTY" and respectfully request the Court to accept my pleas as follows:  
[Set out plea bargain agreement with the State.]

On the basis of my statements in this petition, I request that the Court accept my plea of "GUILTY".

I agree that the Assistant District Attorney General may summarize what the State's witnesses would say if called to testify in this case, and I give up my right to confront and cross-examine those witnesses.

Signed by me in the presence of my attorney, this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

---

DEFENDANT

**CERTIFICATE OF DEFENDANT'S COUNSEL**

The undersigned, as attorney for the foregoing named defendant, \_\_\_\_\_, in Criminal Case No. \_\_\_\_\_, hereby certifies as follows:

1. I have read and fully explained to the defendant the charge(s) against him/her as set out in the indictment or information. I have discussed with the defendant the defendant's knowledge of the facts and circumstances surrounding the charge(s). I have also discussed all possible defenses with the defendant.
2. To the best of my knowledge and belief each statement set forth in the foregoing petition is in all respects accurate and true.
3. The plea of "GUILTY" as offered by the defendant in paragraph twenty-two (22) of the foregoing petition accords with my understanding of the facts as related to me by the defendant, and is consistent with my advice to the defendant.
4. In my opinion, the defendant's waiver of his/her constitutional and statutory rights is voluntarily and understandingly made; and I recommend to the Court that the plea of "GUILTY" be now accepted and entered on behalf of the defendant as requested in paragraph twenty-two (22) of the foregoing petition.
5. I have explained to the defendant any/all potentially applicable forms of alternative sentencing, including probation.
6. I have read the foregoing Petition to Enter a Plea of Guilty to the defendant and/or discussed each provision with him/her in detail.

Signed by me in the presence of the defendant, this the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
ATTORNEY FOR DEFENDANT

**CERTIFICATE OF DISTRICT ATTORNEY GENERAL**

I, \_\_\_\_\_, am the Assistant District Attorney General assigned to represent the State in the subject case. I certify that I have read the recommendation for the guilty plea and punishment set forth in paragraph twenty-two (22) in the foregoing Petition To Enter Plea of Guilty, and find that it accurately states the terms and scope of the plea agreement.

\_\_\_\_\_  
ATTORNEY FOR STATE

**TWENTIETH JUDICIAL DISTRICT  
DAVIDSON COUNTY, TENNESSEE  
DIVISION**

STATE OF TENNESSEE

vs.

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DOCKET NO. \_\_\_\_\_

**ORDER**

This cause came on to be heard before the undersigned Judge upon the defendant's petition to enter a plea of guilty and accompanying certificates of counsel, all of which are attached hereto and incorporated herein by reference. Based on the petition and certificates, and the defendant's responses to questions personally addressed to him/her by the Court under oath, on the record, and in the presence of his/her attorney, together with statements made by the parties' attorneys, the Court finds as a matter of fact:

1. That the defendant understands the nature of the charge(s) against him/her, the nature of the charge(s) to which the plea is offered, the mandatory minimum penalty provided by law, and the maximum possible penalty provided by law.
2. That the defendant understands that he/she has the right to plead not guilty and to persist in that plea.
3. That the defendant has been fully advised and understands his/her right to trial by jury to determine guilt or innocence; that at such trial, he/she has the right to assistance of counsel, the right to confront and cross-examine witnesses against him/her, and the right not to be compelled to incriminate himself/herself or to have an election not to testify used against him/her.
4. That the defendant understands that if he/she pleads guilty there will be no further trial of any kind except as to sentence, so that by pleading guilty, he/she waives the right to a trial and appellate review of the conviction. The defendant understands that if there is a hearing as to sentencing, no jury will be involved.
5. That the defendant understands that if he/she pleads guilty, he/she may be asked questions about the offense(s) to which he/she has pleaded, and that such answers, made under oath, on the record, and in the presence of counsel, may, if untrue, form the basis for later prosecution and punishment for the crime of perjury.
6. That the defendant fully understands that should the Court accept the plea of guilty and the recommended sentence, the sentence will constitute a conviction which, if considered with prior and/or subsequent convictions, may form the basis for enhanced punishment under T. C. A. 40-35-106-108.
7. That the Court after inquiry is satisfied that the plea resulted from prior discussions between the District Attorney General , the defendant, and his/her attorney.
8. That the defendant's plea of guilty, as well as his/her waiver of every right enumerated herein, is voluntary, and not made as a result of force or threats or of promises apart from the plea bargaining process.
9. That from the entire record the Court is satisfied that there is a factual basis for the plea of guilty.

The Court therefore finds that the plea of guilty heretofore entered by the defendant is acceptable to the Court.

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED by the Court that the petition filed herein be, and the same is, in all respects, granted.

This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
JUDGE



**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

vs.

\_\_\_\_\_  
Defendant.

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CASE NO. \_\_\_\_\_

**WAIVER OF DEFENDANT'S APPEARANCE AT ARRAIGNMENT**

I, \_\_\_\_\_, the above-named defendant, have been advised by my attorney that:

1. I am scheduled for arraignment on \_\_\_\_\_, 20\_\_\_\_;
2. The purpose of the arraignment is to provide me:
  - a) a copy of the indictment which sets out the crime(s) with which I am charged, and
  - b) to formally enter my plea of "Not Guilty;"
3. I am aware of the nature of the charges against me;
4. It is my intent to plead "not guilty" to each and every count in the indictment;
5. I know I have the right to appear for my arraignment, but I voluntarily choose to waive that right and agree that my attorney may conduct the arraignment in my absence;
6. I understand, acknowledge and agree that my attorney may conduct the arraignment in person or by remote, electronic means, pursuant to my execution of this waiver of appearance.
7. My date of birth is \_\_\_\_\_; and
8. The last four digits of my social security are \_\_\_\_\_.

\_\_\_\_\_  
Attorney for Defendant

\_\_\_\_\_  
Defendant

**CERTIFICATE OF SERVICE**

I hereby certify that on this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a true and exact copy of the foregoing waiver has been electronically emailed to the Assistant District Attorney, as follows:

Email: \_\_\_\_\_

\_\_\_\_\_  
Attorney for Defendant

**IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

**STATE OF TENNESSEE**

v.

\_\_\_\_\_  
**Defendant.**

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)  
)  
)

**Case No:** \_\_\_\_\_

**WAIVER OF EXTRADITION**

I, \_\_\_\_\_, the above-named defendant and undersigned, hereby waive my right to contest extradition to the State of Tennessee to face prosecution in the above-styled case as well as any and all charges that may arise in the future.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
**Defendant**

\_\_\_\_\_  
**Witness**

Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI

STATE OF TENNESSEE

VS

No. \_\_\_\_\_

**WAIVER OF RIGHT TO TESTIFY DURING TRIAL**

- (1) I understand that I have the right not to testify and that if I choose not to testify, the jury may not draw any inference from my failure to testify;
- (2) I understand that I have the right to testify and that if I wish to exercise that right, no one can prevent me from testifying;
- (3) I have consulted with my counsel in making the decision whether or not to testify;
- (4) My counsel has advised me of the advantages and disadvantages of testifying;
- (5) After considering my rights and asking any questions I had regarding those rights, I voluntarily and personally choose to waive my right to testify.

Criminal Court,  
Davidson County, Tennessee

\_\_\_\_\_  
Signature Of Defendant

\_\_\_\_\_  
Signature Of Attorney

\_\_\_\_\_  
Date

**IN THE CRIMINAL COURT OF DAVIDSON COUNTY, TENNESSEE  
DIVISION VI**

STATE OF TENNESSEE

VS.

\_\_\_\_\_  
**Defendant.**

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CASE NO. \_\_\_\_\_

**WAIVER OF TRIAL BY JURY**

Pursuant to Tenn. R. Crim. P., Rule 23 and before the jury has been sworn, a Motion has been made by the Defendant to waive a trial by jury.

The Defendant, as evidenced by his/her signature hereinbelow, makes oath that he/she has been advised by counsel of the constitutional right of every defendant to a trial by jury.

This motion, with the concurrence of defense counsel and consent of the District Attorney General, is well-taken by the Court and is, therefore, GRANTED.

**IT IS SO ORDERED.**

Approved for Entry:

\_\_\_\_\_  
**Defendant**

\_\_\_\_\_  
**Attorney for Defendant**

Email: \_\_\_\_\_

\_\_\_\_\_  
**Assistant District Attorney General**

Email: \_\_\_\_\_

This the \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

\_\_\_\_\_  
**Cynthia Chappell, Judge**

# **APPENDIX II**

## **Davidson County Criminal Court, Division VI Chamber Rules**

[ccc.nashville.gov/court-resources/rules-procedures/](http://ccc.nashville.gov/court-resources/rules-procedures/)

West's Tennessee Code Annotated  
State Rules of Court  
Rules of the Supreme Court of the State of Tennessee

Sup.Ct.Rules, Rule 13

Rule 13. Appointment, Qualifications, and Compensation of Counsel for Indigent Defendants

Effective: October 26, 2021

Currentness

**Section 1. Right to counsel and procedure for appointment of counsel.**

(a)(1) The purposes of this rule are:

(A) to provide for the appointment of counsel in all proceedings in which an indigent party has a statutory or constitutional right to appointed counsel;

(B) to provide for compensation of appointed counsel in non-capital cases;

(C) to establish qualifications and provide for compensation of appointed counsel in capital cases, including capital post-conviction proceedings;

(D) to provide for payment of expenses incident to appointed counsel's representation;

(E) to provide for the appointment and compensation of experts, investigators, and other support services for indigent parties in criminal cases, parental rights termination proceedings, dependency and neglect proceedings, delinquency proceedings, and capital post-conviction proceedings;

(F) to establish procedures for review of claims for compensation and reimbursement of expenses; and

(G) to meet the standards set forth in Section 107 of the Antiterrorism and Effective Death Penalty Act of 1996.

(2) The failure of any court to follow the provisions of this rule shall not constitute grounds for relief from a judgment of conviction or sentence. The failure of appointed counsel to meet the qualifications set forth in this rule shall not be deemed evidence that counsel did not provide effective assistance of counsel in a particular case.

(b) Each trial court exercising criminal jurisdiction shall maintain a roster of attorneys from which appointments will be made. However, a court may appoint attorneys whose names are not on the roster if necessary to obtain competent counsel according to the provisions of this rule.

(c) All general sessions, juvenile, trial, and appellate courts shall appoint counsel to represent indigent defendants and other parties who have a constitutional or statutory right to representation (herein "indigent party" or "defendant") according to the procedures and standards set forth in this rule.

(d)(1) In the following cases, and in all other cases required by law, the court or appointing authority shall advise any party without counsel of the right to be represented throughout the case by counsel and that counsel will be appointed if the party is indigent and requests appointment of counsel.

(A) Cases in which an adult is charged with a felony or a misdemeanor and is in jeopardy of incarceration;

(B) Contempt of court proceedings in which the defendant is in jeopardy of incarceration;

(C) Proceedings initiated by a petition for *habeas corpus*, early release from incarceration, suspended sentence, or probation revocation;

(D) Proceedings initiated by a petition for post-conviction relief, subject to the provisions of Tennessee Supreme Court Rule 28 and Tennessee Code Annotated sections 40-30-101 et seq.;

(E) Parole revocation proceedings pursuant to the authority of state and/or federal law;

(F) Judicial proceedings under Tennessee Code Annotated, Title 33, Chapters 3 through 8, Mental Health Law;

(G) Cases in which a superintendent of a mental health facility files a petition under the guardianship law, Tennessee Code Annotated, Title 34;

(H) Cases under Tennessee Code Annotated section 37-10-304 and Tennessee Supreme Court Rule 24, relative to petitions for waiver of parental consent for abortions by minors; and

(I) Proceedings initiated pursuant to Tenn. R. Crim. P. 36.1 and in which the trial court, pursuant to Tenn. R. Crim. P. 36.1(b), has determined that the motion states a colorable claim for relief.

(2) In the following proceedings, and in all other proceedings where required by law, the court or appointing authority shall advise any party without counsel of the right to be represented throughout the case by counsel and that counsel will be appointed if the party is indigent and, except as provided in (C), (D), and (F) below, requests appointment of counsel.

(A) Cases in which a juvenile is charged with juvenile delinquency for committing an act which would be a misdemeanor or a felony if committed by an adult;

(B) Cases under Titles 36 and 37 of the Tennessee Code Annotated involving allegations against parents that could result in finding a child dependent or neglected or in terminating parental rights;

(C) Reports of abuse or neglect or investigation reports under Tennessee Code Annotated sections 37-1-401 through 37-1-411. The court shall appoint a guardian ad litem for every child who is or may be the subject of such report. The appointment of the guardian ad litem shall be made upon the filing of the petition or upon the court's own motion, based upon knowledge or reasonable belief that the child may have been abused or neglected. The child who is or may be the subject of a report or investigation of abuse or neglect shall not be required to request appointment of counsel. A single guardian ad litem shall be appointed to represent an entire sibling group unless the court finds that conflicting interests require the appointment of more than one guardian. For purposes of this subsection, the compensation limits established in section 2 apply to each guardian ad litem appointed rather than to each child.

(D) Proceedings to terminate parental rights. The court shall appoint a guardian ad litem for the child, unless the termination is uncontested. The child who is or may be the subject of proceedings to terminate parental rights shall not be required to request appointment of counsel. A single guardian ad litem shall be appointed to represent an entire sibling group unless the court finds that conflicting interests require the appointment of more than one guardian. For purposes of this subsection, the compensation limits established in section 2 apply to each guardian ad litem appointed rather than to each child.

(E) Cases alleging unruly conduct of a child which place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b); and

(F) Adoption proceedings in which the court appoints a guardian ad litem for the child or children pursuant to Public Chapter 409 of the 111th General Assembly.

(e)(1) Except in cases under Sections 1(d)(1)(F) proceedings under the mental health law, 1(d)(1)(G) proceedings for guardianship under Title 34, and 1(d)(2)(A) juvenile delinquency proceedings, whenever a party to any case in section 1(d) requests the appointment of counsel, the party shall be required to complete and submit to the court an Affidavit of Indigency Form provided by the Administrative Office of the Courts, herein "AOC".

(2) Upon inquiry, the court shall make a finding as to the indigency of the party pursuant to the provisions of Tennessee Code Annotated section 40-14-202, which finding shall be evidenced by a court order.

(3) Upon finding a party indigent, the court shall enter an order appointing counsel unless the indigent party rejects the offer of appointment of counsel with an understanding of the legal consequences of the rejection.

(4)(A) When appointing counsel for an indigent defendant pursuant to section 1(e)(3), the court shall appoint the district public defender's office, the state post-conviction defender's office, or other attorneys employed by the state for indigent defense (herein "public defender") if qualified pursuant to this rule and no conflict of interest exists, unless in the sound discretion of the trial judge appointment of other counsel is necessary. Appointment of public defenders shall be subject to the limitations of Tennessee Code Annotated sections 8-14-201 et seq.



(B) If a conflict of interest exists as provided in Tennessee Rules of Professional Conduct 1.7 or the public defender is not qualified pursuant to this rule, the court shall designate counsel from the roster of private attorneys maintained pursuant to section 1(b).

(C) The court shall appoint separate counsel for indigent defendants having interests that cannot be represented properly by the same counsel or when other good cause is shown.

(D) The court shall not make an appointment if counsel makes a clear and convincing showing that adding the appointment to counsel's current workload would prevent counsel from rendering effective representation in accordance with constitutional and professional standards.

(E) When the court appoints counsel pursuant to this subsection, the order of appointment shall assess the non-refundable administrative fee provided by Tennessee Code Annotated section 37-1-126(c)(1) or section 40-14-103(b)(1). Additionally the court shall consider the financial ability of the indigent party to defray a portion or all of the cost for representation by the public defender or a portion or all of the costs associated with the provision of court appointed counsel as provided by Tennessee Code Annotated sections 8-14-205(d)(1); 37-1-126(c)(2); or, 40-14-103(b)(2). If the court finds the indigent party is financially able to defray a portion or all the cost of the indigent party's representation, the court shall enter an order directing the indigent party to pay into the registry of the clerk of such court such sum as the court determines the indigent party is able to pay as specified by Tennessee Code Annotated section 40-14-202(e).

(5) Appointed counsel shall continue to represent an indigent party throughout the proceedings, including any appeals, until the case has been concluded or counsel has been allowed to withdraw by a court. See Tenn. Sup. Ct. R. 14 (setting out the procedure for withdrawal in the Court of Appeals and Court of Criminal Appeals); Tenn. Sup. Ct. R. 8, RPC 1.16.

(f)(1) Indigent parties shall not have the right to select appointed counsel. If an indigent party refuses to accept the services of appointed counsel, such refusal shall be in writing and shall be signed by the indigent party in the presence of the court.

(2) The court shall acknowledge thereon the signature of the indigent party and make the written refusal a part of the record in the case. In addition, the court shall satisfy all other applicable constitutional and procedural requirements relating to waiver of the right to counsel. The indigent party may act pro se without the assistance or presence of counsel only after the court has fulfilled all lawful obligations relating to waiver of the right to counsel.

#### **EXPLANATORY COMMENT:**

Section 1(d)(2)(F) has been added pursuant to Public Chapter 409 of the 111th General Assembly. Section 1(e)(1) has been revised for simplicity and organization. Section 1(e)(2) emphasizes that the finding of indigency must be evidenced by a court order. Section 1(e)(4)(A) is stricter than the former rule and emphasizes that trial courts "shall" appoint the public defender to represent criminal defendants unless a conflict of interest exists or in the sound discretion of the trial court, appointment of another counsel is necessary. Section 1(e)(4)(D) includes a specific standard that must be satisfied before counsel may refuse an appointment. Section 1(e)(4)(E) emphasizes that courts have a statutory duty to assess the administrative fee when appointing counsel as well as a statutory duty to consider whether the indigent party can afford to defray a portion or all of the costs of representation. Section 1(e)(5) clarifies that appointed counsel is obligated to represent the indigent party until a court allows counsel to withdraw. Section 1(f) delineates the rights of indigent parties and the obligations of courts when an indigent party chooses to proceed without counsel.

**Section 2. Compensation of counsel in non-capital cases.**

(a)(1) Appointed counsel, other than public defenders, shall be entitled to reasonable compensation for services rendered as provided in this rule. Reasonable compensation shall be determined by the court in which services are rendered, subject to the limitations in this rule, which limitations are declared to be reasonable.

(2) These limitations apply to compensation for services rendered in each court: municipal, juvenile, or general sessions; criminal, circuit, or chancery; Court of Appeals or Court of Criminal Appeals; Tennessee Supreme Court; and United States Supreme Court.

(b) Co-counsel or associate attorneys in non-capital cases shall not be compensated.

(c) The hourly rate for appointed counsel in non-capital cases shall not exceed fifty dollars (\$50) per hour for time reasonably spent preparing the case and time reasonably spent before a judge on the case to which the attorney has been appointed to represent the indigent party.

(d)(1) The maximum compensation allowed shall be determined by the original charge or allegations in the case. Except as provided in section 2(e), the compensation allowed appointed counsel for services rendered in a non-capital case shall not exceed the following amounts:

(2) Five Hundred Dollars (\$500) for:

(A) Contempt of court cases where an adult or a juvenile is in jeopardy of incarceration;

(B) Parole revocation proceedings pursuant to the authority of state and/or federal law;

(C) Judicial proceedings under Tennessee Code Annotated, Title 33, Chapters 3 through 8, Mental Health Law;

(D) Cases in which a superintendent of a mental health facility files a petition under the guardianship law, Tennessee Code Annotated, Title 34;

(E) Cases under Tennessee Code Annotated section 37-10-304 and Tennessee Supreme Court Rule 24, relative to petitions for waiver of parental consent for abortions by minors;

(F) Cases alleging unruly conduct of a child which place the child in jeopardy of being removed from the home pursuant to § 37-1-132(b); and

(G) Guardian ad litem representation for the child or children in adoption cases in accordance with section 1(d)(2)(F). Pursuant to Public Chapter 409 of the 111th General Assembly, there is a rebuttable presumption that the guardian ad litem's fees shall be divided equally between the parties, excluding the person being adopted.

(3) One thousand dollars (\$1,000) for:

(A) Cases in which an adult or a juvenile is charged with a misdemeanor and is in jeopardy of incarceration;

(B) Direct and interlocutory appeals in the Court of Appeals or Court of Criminal Appeals;

(C) Direct and interlocutory appeals in the Tennessee Supreme Court;

(D) Cases in which a defendant is applying for early release from incarceration or a suspended sentence;

(E) Non-capital post-conviction and habeas corpus proceedings;

(F) Probation revocation proceedings;

(G) All other non-capital cases in which the indigent party has a statutory or constitutional right to be represented by counsel.

(4) One thousand five hundred dollars (\$1,500) for:

(A) Preliminary hearings in general sessions and municipal courts in which an adult is charged with a felony;

(B) Cases in which a juvenile is charged with a non-capital felony;

(5)(A) Two thousand dollars (\$2,000) for cases in trial courts in which the defendant is charged with a felony other than first-degree murder or a Class A or B felony;

(B) Three thousand dollars (\$3,000) for cases in trial courts in which the defendant is charged with first-degree murder or a Class A or B felony;

(6) Maximum compensation for juvenile dependency and neglect proceedings and termination of parental rights proceedings is as follows:

(A) One thousand dollars (\$1000) for:

(i) Dependent or neglected child cases, from the filing of the dependency petition through the dispositional hearing, including the preliminary hearing, ratification of the initial permanency plan, adjudicatory and dispositional hearings;

(ii) Guardian ad litem representation in accordance with section 1(d)(2)(C) for a child or sibling group who is or may be the subject of a report of abuse or neglect or an investigation report under Tennessee Code Annotated sections 37-1-401 through 37-1-411, from the filing of the dependency petition through the dispositional hearing, including the preliminary hearing, ratification of the initial permanency plan, adjudicatory and dispositional hearings; and

(iii) Counsel appointed pursuant to Tennessee Supreme Court Rule 40(e)(2) and in accordance with section 1(d)(2)(C) for a child or sibling group who is or may be the subject of a report of abuse or neglect or an investigation report under Tennessee Code Annotated sections 37-1-401 through 37-1-411, from the filing of the dependency petition through the dispositional hearing, including the preliminary hearing, ratification of the initial permanency plan, adjudicatory and dispositional hearings;

(B) One Thousand, Two Hundred Fifty Dollars (\$1,250) for:

(i) Dependent or neglected child cases, for all post-dispositional proceedings, including foster care review board hearings, post-dispositional court reviews and permanency hearings;

(ii) Guardian ad litem representation in accordance with section 1(d)(2)(C) for a child or sibling group who is or may be the subject of a report of abuse or neglect or an investigation report under Tennessee Code Annotated sections 37-1-401 through 37-1-411, for all post-dispositional proceedings, including foster care review board hearings, post-dispositional court reviews, and permanency hearings; and

(iii) Counsel appointed pursuant to Tennessee Supreme Court Rule 40(e)(2) and in accordance with section 1(d)(2)(D) for a child or sibling group who is or may be the subject of a report of abuse or neglect or an investigation report under Tennessee Code Annotated sections 37-1-401 through 37-1-411, for all post-dispositional proceedings, including foster care review board hearings, post-dispositional court reviews, and permanency hearings.

(C) One thousand, Two Hundred Fifty dollars (\$1,250) for:

(i) Proceedings against parents in which allegations against the parents could result in termination of parental rights;

(ii) Guardian ad litem representation in termination of parental rights cases in accordance with section 1(d)(2)(D); and

(iii) Counsel appointed pursuant to Tennessee Supreme Court Rule 40(e)(2) and in accordance with section 1(d)(2)(C) for a child or sibling group in termination of parental rights cases;

(e)(1) Notwithstanding the provisions of section (2)(d), an amount in excess of the maximum, subject to the limitations of section (2)(e)(3), may be sought by filing a motion in the court in which representation is provided. The motion shall include specific factual allegations demonstrating that the case is complex or extended. The court shall enter an order which evidences

the action taken on the motion. The following, while neither controlling nor exclusive, indicate the character of reasons that may support a complex or extended certification:

(A) The case involved complex scientific evidence and/or expert testimony;

(B) The case involved multiple defendants and/or numerous witnesses;

(C) The case involved multiple protracted hearings;

(D) The case involved novel and complex legal issues.

(E) If the motion is granted, an order shall be forwarded to the Director of the AOC (herein “director”) certifying the case as complex or extended. The order shall either recite the specific facts supporting the finding or incorporate by reference and attach the motion which includes the specific facts supporting the finding. To qualify for payment under this section, the order certifying the claim as extended or complex must be signed contemporaneously with the court's approval of the claim. *Nunc pro tunc* certification orders are not sufficient to support payment under this section.

(2) All payments under section 2(e)(1) must be submitted to the director for approval. If a payment under section 2(e)(1) is not approved by the director, the director shall transmit the claim to the chief justice for disposition. The determination of the chief justice shall be final.

(3) Upon approval of the complex or extended claim by the director or the chief justice, the following maximum amounts apply:

(A) One thousand dollars (\$1,000) in those categories of cases where the maximum compensation is otherwise five hundred dollars (\$500);

(B) Except as provided in section (2)(e)(3)(D), two thousand dollars (\$2,000) in those categories of cases where the maximum compensation is otherwise one thousand dollars (\$1,000);

(C) Two thousand five hundred dollars (\$2,500) in those categories of cases where the maximum compensation is otherwise one thousand two hundred fifty dollars (\$1,250).

(D) Four thousand dollars (\$4,000) in cases in trial courts in which the defendant is charged with a felony other than first-degree murder or a Class A or B felony; and

(E) Six thousand dollars (\$6,000) in cases in trial courts in which the defendant is charged with first-degree murder or a Class A or B felony. Where the felony charged is first-degree murder, the director may waive the six thousand dollar (\$6,000) maximum if the order demonstrates that extraordinary circumstances exist and failure to waive the maximum would result in undue hardship.

(f) Attorneys shall not be compensated for time associated with traveling to a court in another county for the sole purpose of hand-delivering or filing a document.

(g) Counsel appointed or assigned to represent indigents shall not be paid for any time billed in excess of 2,000 hours per calendar year unless, in the opinion of the Administrative Director, an attorney has made reasonable efforts to comply with this limitation, but has been unable to do so, in whole or in part, due to the attorney's representation pursuant to Section 3 of this Rule. It is the responsibility of private counsel to manage their billable hours in compliance with the annual maximum.

#### EXPLANATORY COMMENT:

Section 2(b) unequivocally provides that only one attorney will be compensated in non-capital cases. Section 2(c) clarifies that appointed counsel will not be compensated for time spent on Board of Professional Responsibility complaints arising from appointments. Section 2(d) has been reorganized for simplicity and clarity. Compensation rates for counsel appointed in juvenile, dependency and neglect, and termination of parental rights cases are now contained in Section 2(d)(6). Section 2(d)(6) further defines the dispositional and post-dispositional phases at which compensation is appropriate and also compensates attorneys appointed pursuant to Tennessee Supreme Court Rule 40(e)(2). Section 2(d)(2)(G) has been added pursuant to Public Chapter 409 of the 111th General Assembly. A claim in an adoption proceeding is separate from a claim in a termination of parental rights proceeding, even if the court appoints the same guardian ad litem in the adoption proceeding. Section 2(e)(1) further delineates the procedure and factors supporting certification of a case as complex or extended, including the mandatory requirement that the order certifying the claim be submitted to the AOC contemporaneously with the claim requesting complex or extended compensation. Section 2(e)(2) reiterates that approval of the director or the chief justice is required and that the determination of the chief justice is final. Section 6 of this rule sets out in more detail the claims review process. Section 2(e)(3)(A)-(D) has been revised to simplify and clarify the language. Section 2(e)(3)(D) has been revised to limit waiver of the \$4,000 maximum to first-degree murder cases, rather than all homicide cases. Section 2(f) precludes compensating attorneys for time spent traveling to and from a clerk's office in another county for the sole purpose of hand-delivering or filing documents.

#### Section 3. Minimum qualifications and compensation of counsel in capital cases.

(a) For purposes of this rule, a capital case is a case in which a defendant has been charged with first-degree murder and a notice of intent to seek the death penalty, as provided in Tennessee Code Annotated section 39-13-208 and Tennessee Rule of Criminal Procedure 12.3(b), has been filed and no order withdrawing the notice has been filed. Non-capital compensation rates apply to services rendered by appointed counsel after the date the notice of intent to seek the death penalty is withdrawn.

(b)(1) The court shall appoint two attorneys to represent a defendant at trial in a capital case. Both attorneys appointed must be licensed in Tennessee and have significant experience in Tennessee criminal trial practice, unless in the sound discretion of the trial court, appointment of one attorney admitted under Tennessee Supreme Court Rule 19 is appropriate. The appointment order shall specify which attorney is "lead counsel" and which attorney is "co-counsel." Whenever possible, a public defender shall serve as and be designated "lead counsel."

(2) If the notice of intent to seek the death penalty is withdrawn at least thirty (30) days prior to trial, the trial court shall enter an order relieving one of the attorneys previously appointed. In these circumstances, the trial court may grant the defendant, upon motion, a reasonable continuance of the trial.

(3) If the notice is withdrawn less than thirty (30) days prior to trial, the trial court may either enter an order authorizing the two attorneys previously appointed to remain on the case for the duration of the present trial, or enter an order relieving one of the attorneys previously appointed and granting the defendant, upon motion, a reasonable continuance of the trial.

(c) Lead counsel must:

(1) be a member in good standing of the Tennessee bar or be admitted to practice *pro hac vice*;

(2) have regularly participated in criminal jury trials for at least five years;

(3) have completed, prior to the appointment, a minimum of six (6) hours of specialized training in the defense of defendants charged with a capital offense; and, complete a minimum of six (6) hours of specialized training in the defense of defendants charged with a capital offense every two years thereafter;

(4) have at least one of the following:

(A) experience as lead counsel in the jury trial of at least one capital case;

(B) experience as co-counsel in the trial of at least two capital cases;

(C) experience as co-counsel in the trial of a capital case and experience as lead or sole counsel in the jury trial of at least one murder case;

(D) experience as lead counsel or sole counsel in at least three murder jury trials or one murder jury trial and three felony jury trials; or

(E) experience as a judge in the jury trial of at least one capital case.

(5) The provisions of this subsection requiring lead counsel to have participated in criminal jury trials for at least five years, rather than three years, and requiring six (6) hours of specialized training shall become effective January 1, 2006.

(d) Co-counsel must:

(1) be a member in good standing of the Tennessee bar or be admitted to practice *pro hac vice*;

(2) have completed, prior to the appointment, a minimum of six (6) hours of specialized training in the defense of defendants charged with a capital offense; and, complete a minimum of six (6) hours of specialized training in the defense of defendants charged with a capital offense every two years thereafter;

(3) have at least one of the following qualifications:

(A) qualify as lead counsel under (c) above; or

(B) have experience as sole counsel, lead counsel, or co-counsel in a murder jury trial.

(4) The provisions of this subsection requiring six (6) hours of specialized training shall become effective January 1, 2006.

(e) Attorneys who represent the defendant in the trial court in a capital case may be designated to represent the defendant on direct appeal, provided at least one trial attorney qualifies as new appellate counsel under section 3(g) of this rule and both attorneys are available for appointment. However, new counsel will be appointed to represent the defendant if the trial court, or the court in which the case is pending, determines that appointment of new counsel is necessary to provide the defendant with effective assistance of counsel or that the best interest of the defendant requires appointment of new counsel.

(f) If new counsel are appointed to represent the defendant on direct appeal, both attorneys appointed must be licensed in Tennessee, unless in the sound discretion of the judge, appointment of one attorney admitted under Tennessee Supreme Court Rule 19 is appropriate.

(g) Appointed counsel on direct appeal, regardless of any prior representation of the defendant, must have three years of litigation experience in criminal trials and appeals, and they must have at least one of the two following requirements: experience as counsel of record in the appeal of a capital case; or experience as counsel of record in the appeal of at least three felony convictions within the past three years and a minimum of six hours of specialized training in the trial and appeal of capital cases.

(h) Counsel eligible to be appointed as post-conviction counsel in capital cases must have the same qualifications as appointed appellate counsel, or have trial and appellate experience as counsel of record in state post-conviction proceedings in three felony cases, two homicide cases, or one capital case. Counsel also must have a working knowledge of federal *habeas corpus* practice, which may be satisfied by six hours of specialized training in the representation in federal courts of defendants under the sentence of death imposed in state courts; and they must not have previously represented the defendant at trial or on direct appeal in the case for which the appointment is made, unless the defendant and counsel expressly consent to continued representation.

(i) No more than two attorneys shall be appointed to represent a death-row inmate in a proceeding regarding competency for execution. See *Van Tran v. State*, 6 S.W.3d 257 (Tenn. 1999). At least one of the attorneys appointed shall be qualified as post-conviction counsel as set forth in section 3(h).

(j) Appointed counsel in capital cases, other than public defenders, shall be entitled to reasonable compensation as determined by the court in which such services are rendered, subject to the limitations of this rule, which limitations are declared to be reasonable. Compensation shall be limited to the two attorneys actually appointed in the case. Appointed counsel in a capital case shall submit claims in accordance with Section 6 of this rule.

(k) Hourly rates for appointed counsel in capital cases shall be as follows:



(1) Lead counsel (\$100);

(2) Co-counsel (\$80);

(3) Post-conviction counsel (\$80);

(4) Counsel appointed pursuant to section 3(i) (\$80)

(l) For purposes of this rule, the hourly rate includes time reasonably spent preparing the case and time reasonably spent before a judge on the case to which the attorney has been appointed to represent the indigent party.

(m) Attorneys shall not be compensated for time associated with traveling to a court in another county for the sole purpose of hand-delivering or filing a document.

#### **EXPLANATORY COMMENT:**

Section 3(a) clarifies that even if a trial court allows two appointed attorneys to remain on a case, under Section 3(b)(3), after a notice of intent to seek the death penalty is withdrawn, counsel will be compensated at non-capital rates for services rendered after the date the notice is withdrawn. Section 3(b)(1) has been revised to require that the appointment order must specify lead and co-counsel and that the public defender must serve and be designated lead counsel whenever possible. Section 3(b)(2) & (3) previously appeared as Section 3(l) of Rule 13. Section 3 now permits former prosecutors and judges with appropriate experience to be appointed counsel in capital cases. Section 3(c)(2) has been revised to require five years participation in criminal jury trials, rather than three years representation of defendants in criminal jury trials. Section 3(c)(3) has been revised to enhance the educational requirements for appointed counsel. Section 3(c)(4)(E) has been revised to include an experience requirement applicable only to former judges. Section 3(i) has been revised to clarify that its scope is limited to affording compensation to appointed counsel in a proceeding challenging the inmate's competency to be executed. Section 3(k)(7) provides that attorneys appointed in competency proceedings will be compensated at the same \$80 rate applicable in other capital post-conviction proceedings. Section 3(l) clarifies that appointed counsel will not be compensated for time spent defending against a Board of Professional Responsibility action that arises from the appointment. Section 3(m) precludes compensating attorneys for time spent driving to and from a clerk's office in another

#### **Section 4. Payment of expenses incident to representation.**

(a)(1) Appointed counsel, experts, and investigators may be reimbursed for certain necessary expenses directly related to the representation of indigent parties.

(2) The services or time of a paralegal, law clerk, secretary, legal assistant, or other administrative assistants shall not be reimbursed. Normal overhead expenses also shall not be reimbursed.

(3) The following expenses will be reimbursed without prior approval if reasonably necessary to the representation of the indigent party:

(A) *Long distance telephone charges*, if supported by a log showing the date of the call, the person or office called, the purpose of the call, and the duration of the call stated in one-tenth (1/10) hour segments;

(B) *Mileage* for travel within the state in accordance with Judicial Department travel regulations, if supported by a log showing the mileage, the purpose of the travel, and the origination and destination cities;

(C) *Lodging* where an overnight stay is required at actual costs, if supported by a receipt, not to exceed the current authorized executive branch rates;

For in-state rates:

[www.state.tn.us/finance/act/travel.html](http://www.state.tn.us/finance/act/travel.html)

For out-of-state rates:

[www.state.tn.us/finance/act/policy.html](http://www.state.tn.us/finance/act/policy.html)

(D) *Meals* in accordance with the Judicial Department travel regulations if supported by a receipt, where an overnight stay is required;

(E) *Parking* at actual costs up to ten dollars per day if supported by a receipt;

(F) *Photocopying--Black and White Copies--*

(i) In-house copying at a rate not to exceed seven cents (\$0.07) per page;

(ii) Actual cost of outsourced copying if supported by a receipt, at a rate not to exceed ten cents (\$0.10) per page;

(iii) Actual cost of providing to client a copy of appellate briefs and opinion.

(iv) The cost of providing to the indigent party a copy of the court file or transcript will not be reimbursed once the appeal is complete because the original file and transcript belong to the client.

(v) Prior approval of the court and the director is required if an attorney, expert, or investigator anticipates that total copying costs will exceed \$500.

(G) *Photocopying--Color Copies--*

(i) In-house color copying at a rate not to exceed one dollar (\$1.00) per page;

(ii) Actual cost of outsourced color copies at a rate not to exceed \$1.00 per page if supported by a receipt;

(iii) Prior approval of the court and the director is required if an attorney, expert, or investigator anticipates that total copying costs will exceed \$500.

(H) *Computerized Research* at actual cost for case-related legal and internet research if supported by receipts. If actual costs are not incurred, compensation will be limited to time spent conducting the search. Pro rata cost of subscription[s] will not be paid.

(I) *Miscellaneous expenses* such as postage, commercial delivery service having computer tracking capacity, film, or printing will be compensated at actual cost, not to exceed the fair and reasonable market value, if accompanied by a receipt. Prior approval of the court and the director is required if an attorney, expert, or investigator anticipates that total miscellaneous expenses will exceed \$250.

(J) Expenses relating to improving the indigent party's appearance, including but not limited to expenses for dental plates, haircuts, clothing and cleaning charges for clothing, are not reimbursable.

(K) *Appellate Record*--Actual expenses for an electronic copy of the appellate record (excluding exhibits) and of any transcripts on appeal purchased from the Appellate Court Clerk's Office, not to exceed \$100.00.

(b) Expenses not listed in section 4(a), including travel outside the state, will be reimbursed only if prior authorization is obtained from the court in which the representation is rendered and prior approval is obtained from the director.

(1) Authorization of expenses shall be sought by motion to the court.

(2) The motion shall include both an itemized statement of the estimated or anticipated costs and specific factual allegations demonstrating that the expenses are directly related to and necessary for the effective representation of the indigent party.

(3) The court shall enter an order that evidences the action taken on the motion. If the motion is granted, the order shall either recite the specific facts demonstrating that the expenses are directly related to and necessary for the effective representation of the indigent party or incorporate by reference and attach the defense motion that includes the specific facts demonstrating that finding.

(4) The order and any attachments shall be submitted to the director for prior approval before any expenses are incurred.

(c) The director is hereby authorized to reimburse the Department of Children's Services at the Judicial Department rate for the expense of transcripts in termination of parental rights appeals without obtaining prior approval by court order in each case.

(d) Foreign Language Interpreters and Translators. The appointment of interpreters and/or translators, and the compensation by the AOC for costs associated with an interpreter's and/or translator's services, are governed by Rule 42, Rules of the Tennessee Supreme Court.

**EXPLANATORY COMMENT:**

Section 4(a) provides uniform guidelines and certainty as to expenses that will be reimbursed and delineates the documentation that must accompany a claim for reimbursement. Section 4(a)(3) permits reimbursement without prior approval of certain expenses and is intended to eliminate time previously spent by attorneys and judges considering such expenses. Section 4(a)(3)(F)(iv) clarifies that attorneys will not be reimbursed for the costs of copying the record since the record belongs to the indigent party. Section 4(b) delineates the expenses for which prior approval is required and sets out the requirements and procedure for obtaining prior approval. Section 4(b) dispenses with the former requirement that prior approval be obtained from both the director and the chief justice and makes prior approval of the director essential and final. Section 4(d) cross-references Tenn. Sup. Ct. R. 42, which provides the mechanism and method for compensating foreign language interpreters and translators.

**Section 5. Experts, investigators, and other support services.**

(a)(1) In the trial and direct appeal of all criminal cases in which the defendant is entitled to appointed counsel in the trial and appeals of post-conviction proceedings in capital cases involving indigent petitioners, and in juvenile transfer proceedings, the court, in an *ex parte* hearing, may in its discretion determine that investigative or expert services or other similar services are necessary to ensure that the constitutional rights of the defendant are properly protected. If such determination is made, the court may grant prior authorization for these necessary services in a reasonable amount to be determined by the court. The authorization shall be evidenced by a signed order of the court. The order shall provide for the payment or reimbursement of reasonable and necessary expenses by the director. See Tenn. Code Ann. § 40-14-207(b); *State v. Barnett*, 909 S.W.2d 423 (Tenn. 1995); *Owens v. State*, 908 S.W.2d 923 (Tenn. 1995).

(2) In non-capital post-conviction proceedings, funding for investigative, expert, or other similar services shall not be authorized or approved. See *Davis v. State*, 912 S.W.2d 689 (Tenn. 1995).

(b)(1) Every effort shall be made to obtain the services of a person or entity whose primary office of business is within 150 miles of the court where the case is pending. If the person or entity proposed to provide the service is not located within the 150-mile radius, the motion shall explain the efforts made to obtain the services of a provider within the 150-mile radius.

(2) Any motion seeking funding for expert or similar services shall itemize:

(A) the nature of the services requested;

(B) the name, address, qualifications, and licensure status, as evidenced by a curriculum vitae or resume, of the person or entity proposed to provide the services;

(C) the means, date, time, and location at which the services are to be provided; and

(D) a statement of the itemized costs of the services, including the hourly rate, and the amount of any expected additional or incidental costs.

(3) Any motion seeking funding for investigative or other similar services shall itemize:

(A) the type of investigation to be conducted;

(B) the specific facts that suggest the investigation likely will result in admissible evidence;

(C) an itemized list of anticipated expenses for the investigation;

(D) the name and address of the person or entity proposed to provide the services; and

(E) a statement indicating whether the person satisfies the licensure requirement of this rule.

(4) If a motion satisfies these threshold requirements, the trial court must conduct an *ex parte* hearing on the motion and determine if the requested services are necessary to ensure the protection of the defendant's constitutional rights.

(c)(1) Funding shall be authorized only if, after conducting a hearing on the motion, the court determines that there is a particularized need for the requested services and that the hourly rate charged for the services is reasonable in that it is comparable to rates charged for similar services.

(2) Particularized need in the context of criminal trials and appeals is established when a defendant shows by reference to the particular facts and circumstances that the requested services relate to a matter that, considering the inculpatory evidence, is likely to be a significant issue in the defense at trial and that the requested services are necessary to protect the defendant's right to a fair trial. See *Barnett*, 909 S.W.2d at 423.

(3) Particularized need in the context of capital post-conviction proceedings is established when a petitioner shows, by reference to the particular facts and circumstances of the petitioner's case, that the services are necessary to establish a ground for post-conviction relief and that the petitioner will be unable to establish that ground for post-conviction relief by other available evidence. See *Owens*, 908 S.W.2d at 928.

(4) Particularized need cannot be established and funding requests should be denied where the motion contains only:

(A) undeveloped or conclusory assertions that such services would be beneficial;

(B) assertions establishing only the mere hope or suspicion that favorable evidence may be obtained;

(C) information indicating that the requested services relate to factual issues or matters within the province and understanding of the jury; or

(D) information indicating that the requested services fall within the capability and expertise of appointed counsel. See, e.g., *Barnett*, 909 S.W.2d at 430; *Caldwell v. Mississippi*, 472 U.S. 320, 323 n.1 (1985); *State v. Abraham*, 451 S.E.2d 131, 149 (N.C. 1994).

(d)(1) The director and/or the chief justice shall maintain uniformity as to the rates paid individuals or entities for services provided to indigent parties. Appointed counsel shall make every effort to obtain individuals or entities who are willing to provide services at an hourly rate less than the maximum. Although not an exclusive listing, compensation for individuals or entities providing the following services shall not exceed the following maximum hourly rates:

(A) Accident Reconstruction	\$115.00
(B) Medical Services/Doctors	\$250.00
(C) Psychiatrists	\$250.00
(D) Psychologists	\$150.00
(E) Investigators (Guilt/Sentencing)	\$ 50.00
(F) Mitigation Specialist	\$ 65.00
(G) DNA Expert	\$200.00
(H) Forensic Anthropologist	\$125.00
(I) Ballistics Expert	\$ 75.00
(J) Fingerprint Expert	\$ 75.00
(K) Handwriting Expert	\$ 75.00

(2) For persons or entities compensated at a rate of one hundred dollars (\$100) per hour or more, time spent traveling shall be compensated at no greater than fifty percent (50%) of the approved hourly rate.

(3) Investigators shall not be compensated unless licensed by the Private Investigation and Polygraph Commission of Tennessee or exempted from this licensure requirement, except when an investigator licensed in another state is authorized by a court in Tennessee to conduct an investigation in that other state.

(4) In a post-conviction capital case, a trial court shall not authorize more than a total of \$20,000 for *all* investigative services, unless in its sound discretion the trial court determines that extraordinary circumstances exist that have been proven by clear and convincing evidence.

- (5) In a post-conviction capital case, a trial court shall not authorize more than *a total of* \$25,000 for the services of *all* experts unless in its sound discretion the trial court determines that extraordinary circumstances exist that have been proven by clear and convincing evidence.
- (6) Expenses shall not be authorized or approved for expert tests or expert services if the results or testimony generated from such tests or services will not be admissible as evidence.
- (e)(1) If the requirements of sections 5(c) and (d) are satisfied and the motion is granted, the authorization shall be evidenced by a signed order of the court. Unless otherwise indicated in the order, the amount authorized includes both fees and necessary expenses under section 4(a).
- (2) The order shall include a finding of particularized need and the specific facts that demonstrate particularized need as well as the information required by section 5(b)(1) or (b)(2).
- (3) The court may satisfy the requirements of subsection (2) above by incorporating and attaching that portion of the defense motion that includes the specific facts supporting the finding of particularized need.
- (4) Once the services are authorized by the court in which the case is pending, the order and any attachments must be submitted in writing to the director for prior approval. Claims for these services may not be submitted electronically.
- (5) If the director denies prior approval of the request, the claim shall also be transmitted to the chief justice for disposition and prior approval. The determination of the chief justice shall be final.

**EXPLANATORY COMMENT:**

Section 5(a)(1) contains the language that previously appeared as Section 5(a). Section 5(a)(2) unequivocally provides that funding for investigative, expert, or other similar services is not available in non-capital post-conviction proceedings. Section 5(b)(1) explains that counsel must make “every effort” to obtain the services of experts, investigators or others who are located within 150 miles of the court where the case is pending. Section 5(b)(2) delineates the information that must be included in or submitted with a motion requesting funding for expert or similar services. Section 5(b)(3) delineates the information that must be included in or submitted with a motion requesting funding for investigative or similar services. Section 5(c) has been revised for clarity and includes in subsections (c)(1)-(4) definitions of particularized need and the standards governing a trial court's consideration of funding requests. Section 5(d) has been revised to provide certainty and guidance to attorneys, service providers, and trial courts. Section 5(d)(1) establishes maximum hourly rates for certain services, instructs the director and the chief justice to maintain state-wide uniformity as to the rates paid for services, and directs appointed counsel to seek to retain individuals and/or entities willing to provide services at a rate less than the maximum. Section 5(d)(2) establishes permissible compensation rates for travel for experts paid in excess of \$100 per hour. Section 5(d)(3) establishes the licensure requirements for investigators. Section 5(d)(4) and (5) impose maximum limits on the amounts that may be approved in capital post-conviction proceedings and permit funding in excess of these amounts only upon clear and convincing evidence that extraordinary circumstances exist. Section 5(d)(6) precludes funding for expert tests or services if the results of the tests or the expert's testimony is per se inadmissible. Section 5(e)(1)-(3) delineates the information that must be included in or attached to orders authorizing funding. Section 5(e)(4)-(5) sets out the procedure that must be followed in obtaining prior approval of the request. Section 5(e)(5) provides that only those claims denied by the director will be submitted to the chief justice for

disposition. This changes prior law which required the chief justice to review every request for funding involving an hourly rate in excess of \$150 or an overall amount in excess of \$5,000, even those requests approved by the director.

**Section 6. Review of claims for compensation and reimbursement of expenses.**

(a)(1) All claims for attorney compensation and expenses shall be submitted utilizing the system established by the AOC for electronic submission. Claims of four hundred dollars (\$400.00) or more for attorney compensation and expenses shall be electronically submitted, and shall be reviewed and approved by the judge who presided over final disposition of the case prior to payment by the AOC. Electronic claims that total less than four hundred dollars (\$400.00) shall be exempt from the judicial review and approval requirement; such claims, however, shall be subject to the AOC's examination and audit pursuant to this section.

(2) Time spent by counsel on a single case or proceeding shall be included in a single claim for compensation.

(3) Claims shall be supported by a copy of the court order appointing counsel or authorizing the expenditure and, in the case of expenses requiring prior approval, a copy of the approval of the director and/or the chief justice.

(4) Appointed counsel in a capital case shall file interim claims. Interim claims shall be filed at least every 180 days, but no more frequently than every 30 days. Any portion of a claim requesting payment for services rendered more than 180 days prior to the date on which the claim is approved by the court in which the services were rendered shall be deemed waived and shall not be paid. The provisions of this subsection regarding the time frame for submission of claims shall become effective January 1, 2005.

(5) Appointed counsel in non-capital cases are not permitted to file interim claims but shall file claims for compensation no later than 180 days after disposition of the case in each court in which representation is provided. However, claims for the post-dispositional phase of a juvenile dependency and neglect proceeding shall be filed no later than 180 days from the last activity related to the case. Claims for compensation submitted after the 180-day period shall be deemed waived and shall not be paid. The provisions of this subsection regarding the time frame for submission of claims shall become effective January 1, 2005.

(6) Counsel will be held to a high degree of care in the keeping of contemporaneous time records supporting all claims and in the application for payment. Counsel is required to maintain records supporting claims for payment. Failure to provide sufficient specificity in the claim or supporting documentation may constitute grounds for denial of the claim for compensation or reimbursement.

(7) The payment of a claim by the AOC shall not prejudice the AOC's right to object to or question any claim or matter in relation thereto. Claims shall be subject to reduction for amounts included in any claim or payment previously made which are determined by the AOC not to constitute proper remuneration for compensable services. The AOC reserves the right to deduct from claims which are or shall become due and payable any amounts which are or shall become due and payable to the AOC.

(8) As a part of its examination and audit of claims for compensation and reimbursement under this Rule 13, the AOC shall determine from information provided by the Board of Professional Responsibility whether there are unpaid costs



assessed against counsel submitting the claim pursuant to Tenn. Sup. Ct. R. 9, Section 31.3. Claims for compensation and reimbursement under this Rule 13 shall be subject to reduction for any such unpaid costs.

(b)(1) The AOC shall examine and audit all claims for compensation and reimbursement to insure compliance with this rule and other statutory requirements. The AOC may decline to make any payment or decline to continue to accept any assignment should either the attorney or the third-party assignee fail to comply with the requirements of Rule 13 and other statutory requirements.

(2) After such examination and audit and giving due consideration to state revenues, the director shall make a determination as to the compensation and/or reimbursement to be paid and cause payment to be issued in satisfaction thereof.

(3) Payment may be made directly to the person, agency, or entity providing the services.

(4) The determination by the director shall be final, except where review by the chief justice also is required. In those instances, the determination of the chief justice shall be final. The chief justice may designate another justice to perform this function if the chief justice determines that a designation is appropriate or necessary.

(5) If the director denies an attorney's fee claim in whole or substantial part, such denial shall be forwarded to the chief justice for review. The determination of the chief justice shall be final. Reductions made during the process of auditing a fee claim which are due to mathematical miscalculations or result from requests for payments not permitted by this rule shall not be forwarded to the chief justice for review.

(c)(1) Appointed counsel may contract with a third-party agent to prepare and file claims for attorney compensation and expenses; provided, however, that counsel shall remain responsible for all filings and communications in connection with such claims;

(2) Appointed counsel may assign the right to payment of claims for attorney compensation and expenses to a third-party assignee; provided, however, that: (i) counsel electing to assign the right to payment shall assign such right for all subsequent cases in which counsel will present claims for payment pursuant to this rule; and (ii) counsel shall provide adequate written notice to the director of counsel's assignment of the right to payment to the third-party assignee. Such written notice shall not be effective unless submitted on the Uniform Assignment of Payment For Services Due to An Attorney form provided by the administrative office of the courts. Upon receipt of adequate written notice of counsel's assignment, the director shall make subsequent payments of counsel's claims to the third-party assignee. An assignment submitted to the director shall not relieve counsel of the responsibility for the accuracy and timeliness of all filings nor shall it relieve counsel of the responsibility to personally respond to inquiries from the administrative office of the courts in connection with counsel's claims. Counsel's written notice of assignment shall remain in effect until the director receives written notice that counsel revokes the assignment. The third-party assignee shall agree in writing to indemnify and hold the state harmless for all payments made by the administrative office of the courts in good faith and without notification that the assignment has been revoked and shall file such writing with the director.

**EXPLANATORY COMMENT:**

Section 6(a)(1)-(3) has been revised to clarify the requirements and process for submitting claims for compensation and reimbursement. Section 6(a)(4) mandates that appointed counsel in capital cases file interim claims at least every 180 days but no more frequently than every 30 days and provides that any portion of a claim for services rendered more than 180 days prior to

the date on which the claim is approved by the court will be deemed waived and not paid. The effective date of Section 6(a)(4) is January 1, 2005. Section 6(a)(5) precludes appointed counsel in non-capital cases from filing interim claims for compensation but requires them to submit claims for compensation no later than 180 days after disposition of the case in each court in which representation is provided, with the 180 day period running from the date of the last case-related activity for post-dispositional phases of a dependency and neglect proceeding. Claims for compensation submitted after the 180-day period will be deemed waived and not paid. The effective date of Section 6(a)(5) is January 1, 2005. Section 6(a)(6) provides that counsel will be held to a high degree of care in record keeping and documentation of the claim. Section 6(a)(7) provides that the AOC reserves the right to review claims that come into question even if they have already been paid and establishes that the AOC may recoup any overpayment by setting off the amount of any such overpayment against claims that may be filed. Section 6(b) delineates how claims are audited, approved for payment, and how payments are made. Section 6(b)(4) provides that the determination of the director and/or the chief justice is final. Unlike prior law, Section 6 does not provide for an appeal to the Tennessee Supreme Court from the decision of the director or the chief justice. Section 6(b)(4) also provides that the chief justice may designate another justice to review these claims if the chief justice determines that designation is appropriate or necessary. Section 6(b)(5) sets out those instances where an attorney may appeal the director's decisions to the chief justice.

### **Section 7. Contracts for Indigent Representation.**

In addition and as an alternative to the procedures for appointment and compensation of court-appointed counsel for services described above, the Administrative Director is authorized to enter into agreements with attorneys, law firms, or associations of attorneys to provide legal services for a fee to indigent persons in: (1) emergency involuntary judicial hospitalization actions brought pursuant to Tenn. Code Ann. Title 33, Chapter 6, Part 4; (2) Title IV-D child support enforcement proceedings brought pursuant to Tenn. Code Ann. Title 36, Chapter 5; and (3) cases under Titles 36 and 37 of the Tennessee Code Annotated involving allegations against parents that could result in finding a child dependent or neglected or in terminating parental rights. Such contracts may establish a fixed fee for representation in a specified number and type of cases; provided, however, that any such fixed fee shall not exceed the rates specified in Section 2.

Any such contracts for indigent representation shall be awarded based on an evaluation to determine the quality of representation to be provided, including the ability of attorneys making proposals to exercise independent judgment on behalf of each client, and to maintain workload rates that allow for attorneys to devote adequate time to each client covered by such contracts.

Attorneys providing legal services pursuant to contracts entered into pursuant to this Section shall be appointed to represent all indigent defendants in these cases unless such representation is otherwise prohibited by the Rules of Professional Conduct. *See* Tenn. Sup. Ct. R. 8. In any such case, the court shall appoint qualified counsel pursuant to the provisions of Section 1 of this rule.

The Administrative Director shall prescribe adequate procedures to ensure compliance with the terms of such contracts and shall report to the Court annually on the effectiveness of the contract process for the provision of indigent representation.

### **Credits**

[Amended effective December 1, 1982; November 7, 1983; August 20, 1984; August 4, 1986; amended May 12, 1992, effective July 1, 1991; amended effective July 1, 1993; September 1, 1994; April 3, 1997; July 1, 1997; February 4, 1998; November 23, 1998; January 25, 2001; June 25, 2001; April 29, 2003; amended June 23, 2003, effective July 1, 2003; June 1, 2004, effective July 1, 2004; effective September 2, 2004; September 2, 2005, effective October 1, 2005; amended effective June 12, 2006; amended effective February 27, 2008; amended effective July 1, 2008; July 13, 2011; June 27, 2012; July 1, 2012; amended February 6, 2013, effective July 1, 2013; February 20, 2013, effective April 1, 2013; amended effective March 5, 2013; amended June 25, 2013, effective July 1, 2013; September 4, 2013, effective January 1, 2014; September 19, 2013, effective January 1, 2014; November 19, 2014, effective January 1, 2015; June 29, 2018, effective July 1, 2018; amended effective June 28, 2019; March 27, 2020; October 26, 2021.]

AFFIDAVIT OF INDIGENCY FORM

STATE OF TENNESSEE

Case No.....

vs.

Defendant

Comes the defendant and, subject to the penalty of perjury, makes oath to the following facts (please list, circle, complete, etc.):

- 1. Full Name: .....
2. Social Security No.: .....
3. Any other names ever used: .....
4. Address: .....
5. Telephone Nos.: (Home) \_\_\_\_ (Work) \_\_\_\_ (Other) .....
6. Are you working anywhere? Yes ( ) No ( ) Where? .....
7. How much do you make? \_\_\_\_\_ (weekly, monthly, etc.)
8. Birthdate: \_\_\_\_\_
9. Do you receive any governmental assistance or pensions (disability, SSI, AFDC, etc.)?
Yes ( ) No ( ) What is its value? \_\_\_\_\_ (weekly, monthly, etc.)
10. Do you own any property (house, car, bank acct., etc.): Yes ( ) No ( ) What is its value? \_\_\_\_\_
11. Are you, or your family, going to be able to post your bond?
Yes ( ) No ( )
12. Are you, or your family, going to hire a private attorney?
Yes ( ) No ( )
13. Are you now in custody? Yes ( ) No ( ) If so, how long have you been in custody? \_\_\_\_\_

(If the defendant is in custody, unable to make bond and the answers to questions one (1) through eleven (11) make it clear that the defendant has no resources to hire a private attorney, skip Part II and complete Part III. If Part II is to be completed, do not list items already listed in Part I.)

- 14. Names & ages of all dependents:
relationship
relationship
relationship

15. I have met with following lawyer(s), have attempted to hire said lawyer(s) to represent me, and have been unable to do so:

Name \_\_\_\_\_

Address \_\_\_\_\_

16. All my income from all sources (including, but not limited to wages, interest, gifts, AFDC, SSI, social security, retirement, disability, pension, unemployment, alimony, worker's compensation, etc.):

\$ \_\_\_\_\_ per \_\_\_\_\_ from \_\_\_\_\_

\$ \_\_\_\_\_ per \_\_\_\_\_ from \_\_\_\_\_

\$ \_\_\_\_\_ per \_\_\_\_\_ from \_\_\_\_\_

17. All money available to me from any source: A. Cash \_\_\_\_\_

B. Checking, Saving, or CD Account(s)--give bank, acct. no., balance \_\_\_\_\_

C. Debts owed me \_\_\_\_\_

D. Credit Card(s)--give acct. no., balance, credit limit, and type (Visa, Mastercard, AmericanExpress, etc.)

E. Other \_\_\_\_\_

18. All vehicles/vessels owned by me, solely or jointly, within the last six months (including but not limited to cars, trucks, motorcycles, farm equip., boats etc.):

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

19. All real estate owned by me, solely or jointly, within the last six months (including land, lots, houses, mobile homes, etc.):

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

20. All assets or property not already listed owned within the last six months or expected in the future:

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

\_\_\_\_\_ value \$ \_\_\_\_\_ amt. owed \_\_\_\_\_

21. The last income tax return I filed was for the year \_\_\_\_\_ and it reflected a net income of \$ \_\_\_\_\_. I will file a copy of same within one week if required.

22. I am out of jail on bond of \$ \_\_\_\_\_ made by \_\_\_\_\_. The money to make bond, \$ \_\_\_\_\_ was paid by \_\_\_\_\_

23. Acknowledging that I am still under oath, I certify that I have listed in Parts I and II all assets in which I hold or expect to hold any legal or equitable interest.

24. I am financially unable to obtain the assistance of a lawyer and request the court to appoint a lawyer for me.

25. I understand that it is a **Class A misdemeanor** for which I can be sentenced to jail for up to 11 months 29 days or be fined up to \$2500.00 or both if I intentionally or knowingly misrepresent, falsify, or withhold any information

required in this affidavit. I also understand that I may be required by the Court to produce other information in support of my request for an attorney.

This \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. .....

Defendant

Sworn to and Subscribed before me. This \_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_.

Clerk

Judge

Notes of Decisions (22)

Sup. Ct. Rules, Rule 13, TN R S CT Rule 13

State court rules are current with amendments received through July 1, 2023. Some rules may be more current; see credits for details.

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End of Document

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The defendant has heretofore been declared indigent within the meaning of the law and does not have the ability to retain an attorney nor funds to obtain the assistance of a fact investigator in his/her defense.

For counsel to meet the constitutional standard for effective assistance, the defendant requests that the Court authorize funds to hire a fact investigator to conduct a fact investigation in this case.<sup>2</sup> The defendant maintains that his/her court-appointed attorney is a solo practitioner and cannot adequately investigate, establish and present all possible defenses to the charges brought against him without the assistance of a professional, licensed and experienced private investigator. The defendant requires such expert services to conduct a thorough investigation into the facts of the case.

The defendant contends that the very purpose for providing funds for such assistance is to allow the indigent defendant in a criminal prosecution the resources needed for an adequate defense or appeal in similar measure to those tools available to other defendants who are able to pay for such services.<sup>3</sup>

The investigation will necessarily include a complete review of all materials produced in the discovery by the District Attorney General; review and analysis of all police reports, verifying defendant's version of events during the applicable time period and discrediting the version of events set forth by the State's witnesses; developing additional witnesses to support the defense, developing circumstantial evidence indicative of the defendant's innocence; conducting a complete background investigation of the defendant and all other parties allegedly involved in the crime; determining the veracity of witnesses; examining the forensic reports provided by the prosecution; coordinating all materials in an easily understandable and

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<sup>2</sup> State vs. Zimmerman, 823 S.W.2d 220 (Tenn. Crim. App. 1991)

<sup>3</sup> U.S. vs. Tate, 419 F.2d 131(6<sup>th</sup> Cir. 1969); U.S. vs. Theriault, 440 F.2d 713 (5<sup>th</sup> Cir. 1971); Griffin vs. Illinois, 351 U.S. 12, 19; 76 S.Ct. 585; 100 L.Ed. 891 (1956); State vs. Elliott, 524 S.W.2d 473 (Tenn. 1975)

accessible form, and other inquiries and determination as they are identified in the investigatory phase of the case. [As to the specific facts of this case, many, if not all, of the tasks itemized on Exhibit A, attached hereto, need to be completed in this case.]

The specific facts of this case that suggest the investigation likely will result in admissible evidence, supporting a finding of particularized need, are:

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Further, [\*\*example language: the State has or will provided the names of \_\_\_\_\_ witnesses pertaining to this case. The defendant submits that it will be necessary to locate and interview these witnesses and to seek out other witnesses not listed on the indictment who have direct knowledge of this case. The state has or will also provide an unknown number of CD's and DVD's of crime scene photos, witness statements and other evidence related to this case.

Or - The State of Tennessee has filed a motion of intent to seek a sentence of life without the possibility of parole in this case.

Or - other language in support of the request.]

Given the aforesaid facts and circumstances of this case, and pursuant to *Tenn. Sup. Ct. R. 13, Section 5*, the Defendant has a particularized need for the state-funded investigative services, in that the requested services relate to a matter that, considering the inculpatory evidence, is likely to be a significant issue in the defense at trial, and such services are necessary to protect Defendant's right to a fair trial. The defendant contends the aforesaid demonstrates



the necessity of expert assistance which would be material assistance to the establishment of his defense theory.<sup>4</sup>

The name, address and phone number of the investigator and/or investigative agency is: \_\_\_\_\_ located at \_\_\_\_\_; phone number: \_\_\_\_\_; email \_\_\_\_\_. Investigators licensed under this agency may be utilized in this investigation. This investigator is located within 150 miles of the court and meets licensure requirements, as evidenced by the curriculum vitae or resume which has been provided to the Court or is attached hereto as an exhibit.

WHEREFORE, the defendant, \_\_\_\_\_, moves this Honorable Court to enter an Order granting him/her the funds sufficient for the performance of \_\_\_\_ hours of service, at the hourly rate of fifty dollars (\$50.00), plus anticipated necessary or incidental costs, in an amount not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_.00) without additional court approval for a private investigator, to wit: \_\_\_\_\_ located at \_\_\_\_\_ for the reasons set forth in the premises of this motion.

FURTHER, Defendant moves the Court to authorize the said investigator and/or investigative agency to submit periodic vouchers for approval and payment for services by the Administrative Office of the Supreme Court. This is appropriate given the potential substantial period of time that may occur between the beginning of providing services and the conclusion of this case.

---

<sup>4</sup> State vs. Edwards, 868 S.W.2d 682 (Tenn. Crim. App. 1993)

Respectfully submitted,

\_\_\_\_\_  
\_\_\_\_\_  
ADDRESS BPR# \_\_\_\_\_  
PHONE  
EMAIL

*EX PARTE – NO SERVICE TO STATE*

*This document is filed under seal and is privileged and confidential.  
It may not be disclosed to any party absent an Order of the Court.  
All privileges, including attorney-client and work product, are hereby claimed.  
Review of this document by the State of Tennessee is prohibited.*



issue likely to be significant at trial; therefore, said investigative services are necessary to establish Defendant's defense theory and to protect Defendant's right to a fair trial.

6. The specific facts that demonstrate particularized need have been set forth in Defendant's motion for funds filed under seal in this matter, to which reference is made, which are incorporated herein by reference.

7. Defendant anticipates that the investigator will perform many, if not all, of the tasks [as follows: \_\_\_\_\_. -or- itemized on **Exhibit A** attached hereto and incorporated herein as if set forth verbatim.]

8. \_\_\_\_\_, located at \_\_\_\_\_, which is within 150 miles of the court, is willing to conduct the investigative tasks in this case for an hourly rate of \$50.00. This hourly rate is reasonable for the services being provided.

9. The Court further finds that a request of \$\_\_\_\_\_, equal to \_\_\_\_\_ hours of work to conduct the investigative tasks listed, is reasonable as well.

It is therefore **ORDERED, ADJUDGED AND DECREED** that in order to ensure that the constitutional rights of the defendant are properly protected, Defendant shall be granted the following:

1. Pursuant to Tennessee Supreme Court Rule 13, Section 5, Defendant is authorized to obtain the investigative services of \_\_\_\_\_, under the direction of \_\_\_\_\_, its affiliated investigators and licensed associates, with its primary place of business located at \_\_\_\_\_, which is within 150-miles of this Court.

2. Said investigator/investigative agency shall be paid at the rate of (\$50.00) per hour for which they shall provide itemized billing statements.
3. The amount allotted to said investigator/investigative agency is up to \$ \_\_\_\_\_, in addition to necessary and reasonable expenses pursuant to Tenn. Sup. Ct. R. 13, Section 5.
4. The investigator shall be allowed to submit periodic vouchers for services for approval and payment by the Administrative Office of the Supreme Court. As the Defendant has been declared indigent, the Administrative Director of the Tennessee Supreme Court shall be responsible for payment and reimbursement of the aforesaid reasonable and necessary fees and expenses.
5. A copy of the approved Order may be provided to the said investigator.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the underlying motion and this Order shall be kept under seal until further orders of the court, as justice requires.

**ENTERED** this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

**CYNTHIA CHAPPELL, JUDGE**  
Division VI, Criminal Court  
Davidson County, Tennessee

APPROVED FOR ENTRY:

\_\_\_\_\_  
NAME, BPR \_\_\_\_\_  
Attorney for Defendant  
ADDRESS  
PH: \_\_\_\_\_  
EMAIL: \_\_\_\_\_

***EX PARTE*-----No Service to State**

**This document is filed under seal and is privileged and confidential.  
It may not be disclosed to any party absent Order of the Court.**

IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI

STATE OF TENNESSEE )

VS. )

[REDACTED] )

)  
)  
)  
)

[REDACTED]

FILED  
Davidson County  
Criminal Court Clerk  
BY [REDACTED]  
Deputy Clerk  
[Signature]

MOTION TO EXCEED STATUTORY CAP AND CERTIFY REPRESENTATION IN THIS CASE AS EXTENDED AND COMPLEX- FIRST DEGREE MURDER CASE

Comes now [REDACTED], counsel for the Defendant [REDACTED], pursuant to Tennessee Supreme Court Rule 13, Section 2(e), and hereby moves this Honorable Court to certify to the Director of the Administrative Office of the Courts that the above referenced case required extended and/or complex representation within the meaning of Tennessee Code Annotated Section 40-14-207(a)(2) and to certify that an amount in excess of the maximum amount allowed by Tennessee Supreme Court Rule 13, Section (2)(d), is necessary to provide reasonable compensation to counsel for the Defendant. Total amount requested is \$ [REDACTED] 00.

As grounds for the Motion, counsel would state and show that his representation was extended and complex, as it involved detailed matters of law. Counsel would state and show that the defense involved extensive research with respect various areas of law as well as extensive court appearances on bond matters in this case. More specifically, counsel for the Defendant:

1. Counsel was appointed on [REDACTED], roughly 3 weeks shy of two years. This was after the Public Defender's Office withdrew from representation.
2. Thoroughly reviewed extensive written and electronic discovery provided by the state in this case.
3. Counsel had a 3.5 DAY JURY TRIAL on charges of First Degree Premeditated Murder and Aggravated Assault.

4. Researched and drafted motions, including multiple bond motions.
5. Met with the client numerous times in person and over the phone to discuss the case.
6. The case ultimately settled in a verdict of lesser included offenses of 2<sup>nd</sup> Degree Murder and Reckless Aggravated Assault.

Counsel for the Defendant would state that certification to the Director of the Administrative Office of the Courts that the above referenced case required extended and/or complex representation and certification that an amount in excess of the maximum amount allowed by Tennessee Supreme Court Rule 13, Section (2)(d), is necessary to provide reasonable compensation to counsel.

Based upon the foregoing, counsel for the Defendant, [REDACTED], respectfully moves this Honorable Court to certify that the above referenced case required extended and complex representation and further requests this Honorable Court to order the Director of the Administrative Office of the Courts to pay the accompanying Claim for Attorney Fees<sup>\*</sup> regarding representation in the above referenced case.

Respectfully submitted,

[REDACTED]  
[REDACTED] B.P.R.  
Attorney for Defendant  
[REDACTED]  
Nashville, TN 37201  
615-[REDACTED]  
[REDACTED].com

\* Attach Unofficial Copy of Attorney Fee Claim



IN THE CRIMINAL COURT FOR DAVIDSON COUNTY, TENNESSEE  
DIVISION VI

STATE OF TENNESSEE )

VS. )

[REDACTED] )

)  
)  
)  
)

[REDACTED]

FILED  
Davidson County  
Criminal Court Clerk  
BY [REDACTED]  
Deputy Clerk [Signature]

ORDER CERTIFYING THE REPRESENTATION IN THE ABOVE REFERENCED  
MATTER AS BEING EXTENDED AND COMPLEX-FIRST DEGREE MURDER CASE

This matter came on to be heard upon Motion of counsel for the Defendant for the Court to exceed the statutory cap in this matter and certify the representation in the above referenced matter to be extended and complex pursuant to Tennessee Supreme Court Rule 13, Section (2)(e). Based upon the Motion of counsel and based upon the entire record in this cause, including the Claim for Attorney Fees filed by counsel for the Defendant, the Court finds that the Motion is well taken and is pleased to grant the same. The Court further finds that counsel's representation was extended and complex as it involved detailed matters of law related to various issues and motions on a FIRST DEGREE MURDER CASE and Aggravated Assault case covering almost 2 years and multiple motions for bond revocations and reinstatements and a 3.5 day jury trial. The FIRST DEGREE MURDER charge ultimately resulted in a verdict of Second Degree Murder and Reckless Aggravated Assault. The defense involved extensive research and appearance in court with respect to the aforementioned charges.

It is, therefore, **ORDERED, ADJUDGED and DECREED** that the representation in the above referenced case is hereby certified as extended and complex pursuant to Tennessee Supreme Court Rule 13 and it is further **ORDERED, ADJUDGED and DECREED** that the Administrative Director of the Courts provide reasonable compensation to appointed counsel totaling \$ [REDACTED] and calculated in counsel's Claim for Attorney Fees.

SO ORDERED AND ENTERED this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Cynthia Chappell, Judge

APPROVED FOR ENTRY:

\_\_\_\_\_  
NAME, BPR #  
Attorney for Defendant  
ADDRESS  
PHONE  
EMAIL

# **APPENDIX III**

## **Davidson County Criminal Court, Division VI Chamber Rules**

[ccc.nashville.gov/court-resources/rules-procedures/](http://ccc.nashville.gov/court-resources/rules-procedures/)

## APPENDIX III

### Division VI Jury Trial Procedures\*

Effective July 1, 2023

#### General Procedure

1. Attorneys are to appear in Court ready to proceed at 8:30 a.m. on each day of trial.
2. Preliminary matters are limited to administrative issues and extraordinary motions *in limine*.
3. No evidentiary hearings, other than T.R.E. 404, 608 and 609 issues, will be allowed. Any such matters not previously addressed will be considered **waived**.
4. Jurors will be requested promptly at 9:00 a.m. each morning of the trial.
5. Counsel for incarcerated defendants shall provide appropriate and sufficient court attire for the duration of the trial for his/her client. Clothing for incarcerated defendants should be delivered to Division VI staff on the Friday before trial or not later than 8:00 a.m. during trial week. [The Court has clothing available if needed, including shirts, pants, skirts, tops, ties and shoes; to request, email [karenpbarnes@jnsnashville.gov](mailto:karenpbarnes@jnsnashville.gov)] All attire shall be retrieved from Court staff at the conclusion of the trial.

#### Pretrial Conference / Final Status Date

6. All matters set for trial are set for status and an informal pretrial conference on Thursday preceding trial.

#### Evidentiary Issues

7. Known evidentiary issues must be discussed prior to trial and not later than the pretrial conference. Any evidentiary issues requiring testimony (including, but not limited to, suppression motions or motions pursuant to T.R.E. 404(a), 404(b), 405, 412, 608(b), 609 or 616) must be filed pursuant to the Court's Pretrial Scheduling Order, but not less than fourteen (14) days prior to trial.
8. All standard motions *in limine* must be filed pursuant to the Court's Pretrial Scheduling Order unless otherwise ordered. Standard motions *in limine* will be set for adjudication on the final status date in advance of trial. Absent extraordinary circumstances and leave of Court, motions *in limine* will not be adjudicated the day of trial.

#### Pretrial Procedures

9. At the pretrial conference, Counsel shall provide the Court with an agreed upon, brief statement of facts to be read to the jury during opening instructions.

10. At the pretrial conference, Counsel are expected to notify the Court of the approximate length of trial, number of witnesses, preferred Tennessee Pattern Jury Instructions, lesser-included offenses, and elections (if any), and be prepared to argue any Motions *in Limine*.
11. A written list of potential witnesses named in the capacity in which they are testifying shall be provided to the Court by close of business on Thursday prior to trial via email to [shannonsmith@jnsnashville.org](mailto:shannonsmith@jnsnashville.org) and [karenpbarnes@jnsnashville.org](mailto:karenpbarnes@jnsnashville.org). This notice to the Court does not constitute notice to opposing counsel nor is it considered a subpoena request.
12. If either counsel intends to use audio and video recordings during trial, copies shall be made available to opposing counsel prior to trial pursuant to Tenn. R. Crim. P. 12(d) and Local Rules of Practice 10.03.
13. Copies of transcripts, redacted and unredacted, should be made available to the court for review not less than ten (10) business days prior to trial. However, if the parties cannot agree on redactions, the parties shall provide the Court with one copy of the transcript at issue with the defense's proposed redactions highlighted in one color, the State's proposed redactions in another color, and agreed upon redactions in a third color. Any issues must be resolved not later than the pretrial conference.
14. If counsel intends to use the courtroom technology, Division VI staff must be notified not later than Thursday before trial. It is counsel's responsibility to familiarize him/herself with the technology available. It is highly recommended that counsel make arrangements to test all equipment before presentation to the jury.

### **Subpoenas**

15. Not less than ten (10) business days prior to trial, counsel is responsible for providing the Clerk a name, valid address, and valid phone number for all witnesses requiring subpoena. Do not rely on opposing counsel's request or the indictment.
16. Incarcerated Witnesses: Counsel requesting subpoenas for incarcerated witnesses are required to: (A) determine the facility where the witness is incarcerated and provide the facility name and contact, as well as the witness's TDOC/inmate number to the Clerk for transport to trial; (B) determine the identity of the attorney who is representing or last represented the incarcerated witness and notify counsel of the need for the witness's testimony; and (C) notify the court officers of any anticipated issues, including general security and/or whether the witness is incompatible with other witnesses.
17. TDOC requires transport notice approximately seven (7) to ten (10) days prior to the requested transport date. If the incarcerated witness is no longer represented by an attorney, counsel must timely notify the Court so that an attorney can be appointed if necessary.

### **Voir Dire and Jury Procedures**

18. If the Defendant intends to waive the jury imposing the fine in the event of conviction, complete the written waiver prior to the voir dire process.

19. The Court will seat 21 potential jurors; 14 in the jury box and 7 in front of them. Counsel will question all 21 jurors and then strike from only those jurors seated in the jury box. The front row will be used to replace the excused jurors. Counsel then will strike until either a jury is selected or the front row needs to be refilled. Counsel may use preemptory challenges against any juror until your challenges are exhausted.
20. Counsel admitting documentary evidence which is intended to be published shall provide a copy for the Court, a copy for the court reporter, and copies for each individual juror and alternate.
21. All electronic evidence must be formatted to be playable on the courthouse audiovisual equipment.

### **During Trial**

22. Counsel is instructed to use the podium and microphone between counsel tables in order to maintain an accurate record of the proceeding. During voir dire, as well as opening and closing statements, a podium will be placed in front of the jury box.
23. Counsel shall use formal names in addressing and referring to witnesses.
24. Any evidence anticipated to be introduced under T.R.E. 404, 405, 608,609 or 615 should be provided to the Court in advance, with the jury out. [The admissibility of such evidence is subject to Rule 7 above.]
25. Speaking objections are not allowed. One-word objections that cite to the T.R.E. rule number are acceptable. Any further argument will be made at the Bench.
26. Please note, unless an objection is made contemporaneously to opposing counsel's improper opening or closing, the issue generally is waived. The Court may direct counsel to limit time for opening or closing.

\*These procedures, where applicable, also apply to Bench Trials

# **APPENDIX IV**

## **Davidson County Criminal Court, Division VI Chamber Rules**

[ccc.nashville.gov/court-resources/rules-procedures/](http://ccc.nashville.gov/court-resources/rules-procedures/)

APPENDIX IV  
Continuing Legal Education

TN Supreme Court Rule 4.08:

**4.08.** The Commission may, in its discretion, award:

(d) An attorney who provides indigent defense representation at a reduced hourly rate may receive EP credit for the uncompensated portion of the representation based upon the Commission's formula as set out in the Request for Earned Indigent Defense Credit form. A maximum of three (3) hours of credit may be earned in any compliance year. Indigent Defense credit hours earned in a compliance year in excess of the three (3) credit annual maximum may be carried forward for credit in the succeeding compliance year, but only for the succeeding compliance year and only up to three (3) credit hours. Credits awarded pursuant to this paragraph shall be exempt from the per-hour fee imposed by Section 8 of this Rule. The form Request for Earned Indigent Defense Credit can be found on the CLE website – [www.cletn.com](http://www.cletn.com)

(e) An attorney may receive a combined maximum of three (3) credits of pro bono and/or indigent defense credit in any compliance year.





# Tennessee Commission on Continuing Legal Education

1321 Murfreesboro Pike, Suite 810 • Nashville, Tennessee 37217

Office: 615-741-3096 • Fax: 615-532-2477 • Email: info@cletn.com

## REQUEST FOR EARNED INDIGENT DEFENSE CREDITS

Name \_\_\_\_\_ TN BPR No. \_\_\_\_\_

Email: \_\_\_\_\_ Phone: \_\_\_\_\_

*Calculate each type of hours separately. Only three credit hours may be used annually.*

### IN-COURT HOURS

- 1. In-court hours (.58 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 2. Capital cases, lead counsel (.16 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 3. Capital cases, co-counsel (.33 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 4. Capital post-conviction cases (.33 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_

**a. TOTAL In-Court CLE Ethics Credits:** 0.00

### OUT-OF-COURT-HOURS

- 1. Out-of-court hours (.66 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 2. Capital cases, lead counsel (.38 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 3. Capital cases, co-counsel (.5 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_
- 4. Capital post-conviction cases (.5 x \_\_\_\_\_ hours) /5 = \_\_\_\_\_

**b. TOTAL In-Court CLE Ethics Credits:** 0.00

**TOTAL INDIGENT DEFENSE CREDITS REQUESTED (MAX 6)** 0.00

*No reporting fee is required for indigent defense hours. Only three indigent credits may be applied per compliance year, but three may carry over. See Tenn. Sup. Ct. R. 21 §4.08.*

I certify that the foregoing information is complete and accurate and  
the ACAP Input Forms are attached.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Return this form by email with the ACAP Input Forms to: info@CLETN.com, OR by mail to:  
Tennessee Commission on CLE, 1321 Murfreesboro Pike, Suite 810, Nashville, TN 37217

## Judge Cynthia Chappell

Criminal Court, Division VI

Prior to assuming the bench in 2022, Judge Chappell was in private practice for 29 years. Her practice included federal and state court litigation in both criminal and civil matters. She received her B.A. in Psychology from Rhodes College and her J.D. from the University of Memphis Law School.

Judge Chappell holds membership in the Nashville, Tennessee, and American Bar Associations, the Nashville Bar Foundation, Tennessee Bar Foundation Board of Trustees, Harry Phillips Inns of Court Emeritus, Lawyers Association for Women (Marion Griffin Chapter), Tennessee Trial Judges Association and the National Association of Women Judges.

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Chief of Staff

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