

I. INTRODUCTION

Texas law recognizes two kinds of contempt and two different types of remedies for contempt. Contempt is classified as either *direct contempt*—that which occurs in the presence of the court during court proceedings and is immediately punishable by the court, or as *indirect or constructive contempt*, that which occurs outside the court’s presence and for which stricter procedural standards control.

The remedies for contempt are similarly divided into two categories—*civil or coercive* and *criminal or punitive*. The remedy used by the court, not the conduct of the contemnor, defines the contempt remedies as civil or criminal.

II. DIRECT CONTEMPT

A. DEFINITION AND BACKGROUND

1. The essence of direct contempt is that the offending conduct obstructs or tends to obstruct the proper administration of justice. *Ex parte Daniels*, 722 S.W.2d 707, 708 (Tex. Crim. App. 1987) (involving a pro se litigant who created a disturbance during the trial).
2. To preserve order in the courtroom for the proper conduct of business, the court must act instantly to suppress a disturbance or violence or physical obstruction or disrespect to the court.
3. Direct contempt is characterized by an unwarranted interruption of orderly court proceedings and for the most part is unrelated to the issues on trial.
4. The interruption diverts attention from the trial and delays the proceedings until the interruption is addressed by the court.
5. Direct contempt can be addressed by the court summarily, *Ex parte Duncan*, 182 S.W. 313, 314 (Tex. Crim. App. 1916), *Cooke v. United States*, 45 Sup. Ct. 390, 394 (1925), *Ex parte Flournoy*, 312 S.W.2d 488, 492 (Tex. 1958) unless the contempt involves an officer of the court, Tex. Gov’t Code § 21.002(d).

B. A FINDING OF DIRECT CONTEMPT DOES NOT ALWAYS JUSTIFY SUMMARY PUNISHMENT

1. In *Ex parte Knable*, 818 S.W.2d 811 (Tex. Crim. App. 1991), a non-attorney informed the trial court that he was legal counsel for the defendants in an injunction hearing. Twenty days after the hearing the judge learned of the misrepresentation, adjudged him in direct contempt, and had him arrested. The Court of Criminal Appeals held that the immediate need to maintain decorum had passed and the trial judge’s power to punish summarily ended also. The power to punish summarily for direct contempt flows from observing the conduct and the exigency of the situation.

2. Direct contempt was shown
 - a. In the case of *Flournoy*, 312 S.W.2d at 492, by a litigant's refusal to obey a specific court order during trial proceedings; and
 - b. By Relator in open court expressing improper remarks to the court and expressing indifference to the court's action, *Ex parte Norton*, 191 S.W.2d 713 (Tex. 1946); and
 - c. By the contemnor disobeying the judge's instruction to cease a disturbance in court, *Ex parte Norton*, 610 S.W.2d 512, 513 (Tex. Crim. App. 1981).

III. INDIRECT CONTEMPT

A. DEFINITION AND BACKGROUND

1. Indirect or constructive contempt occurs outside the court's presence, and does not involve a disruption of orderly court proceedings.
2. Unlike direct contempt, in constructive contempt the issue generally does relate to the case on trial, and is most often characterized by a dispute between the parties to the litigation regarding enforcement of a court order.
3. Constructive contempt does not interfere with or interrupt court proceedings since it is the very focus of court proceedings scheduled to address it. Although time is important, it does not have the urgency of direct contempt and consequently that the law imposes much more stringent procedural standards on constructive contempt hearings.

B. CONSTRUCTIVE CONTEMPT WAS SHOWN

1. By a litigant having a conversation with a juror after trial began, *Ex parte Privitt*, 77 S.W.2d 663 (Tex. Crim. App. 1934); and
2. By contemnor secreting assets from a court appointed receiver, *Ex parte Klugsberg*, 87 S.W.2d 465, 466 (Tex. 1935); and
3. By the failure to obey a court order in *Ex parte Hughes*, 759 S.W.2d 118, 119 (Tex. 1988), and *In re Bailey*, 296 S.W.3d 859, 863 (Tex. App. – Tyler 2009, no writ).

IV. REMEDIES FOR CONTEMPT

A. AUTHORITY

1. Courts are said to have the inherent power to maintain control of court proceedings and enforce lawful orders through the power of contempt. Tex. Gov't Code § 21.001(a).
2. Although all contempt proceedings are quasi-criminal, Ex parte Cardwell, 416 S.W.2d 382, 384 (Tex. 1967), it is the character of the relief that the proceeding will afford that defines the proceeding as civil or criminal, Hicks on Behalf of Feiock v. Feiock, 108 Sup. Ct. 1423, 1429 (1998).
3. On a finding of contempt, the court may respond to the contempt by applying the civil/coercive remedy sanction, or the criminal/punitive sanction, or a combination of both.

B. CIVIL/COERCIVE

1. Civil contempt, more accurately known as coercive contempt, has the purpose of securing compliance with a court order.
2. An order of enforcement by contempt underscores the authority of the court and inures to the benefit of the complaining party.
3. To be enforceable by coercive contempt the order must be clear and unambiguous. Ex parte Chambers, 898 S.W.2d 257, 260 (Tex. 1995) *rehearing overruled*; In re Coppock, 277 S.W.3d 417, 418 (Tex. 2009).
4. Due process standards apply in indirect contempt proceedings to assure that the contemnor is offered adequate safeguards.
 - a. "Due process of law . . . in the prosecution of contempt, except of that committed in open court, requires that the accused should be advised of the charges and have a reasonable opportunity to meet them by way of defense or explanation . . . this includes the assistance of counsel, if requested, and the right to call witnesses to give testimony . . ." Cooke, 45 Sup. Ct. at 395.
 - b. Texas law requires strict adherence to procedural due process in constructive contempt, including
 - Full and complete notice of the conduct with which the contemnor is charged, In re Rowe, 113 S.W.3d 749, 752 (Tex. App.—Austin, 2003, no writ); In re R.E.D., 278 S.W.3d 850, 856 (Tex. App.—Houston [1st District] 2009, no writ);
 - Adequate notice of the court order alleged to have been violated, Ex parte Conway, 419 S.W.2d 827, 828 (Tex. 1967);
 - Ample time to prepare and respond to the allegation, In re Oliver, 68 Sup. Ct. 499, 507 (1948), Ex parte Martin, 656 S.W.2d 443, 445 (Tex. Crim. App. 1982);
 - Reasonable notice of the time and date of the contempt hearing, Ex parte Vetterick, 744 S.W.2d 598, 599 (Tex. 1988), Tex. Fam. Code § 157.062, and the right to legal counsel, Cooke, 45 Sup. Ct. at 395, Ex parte Hiester, 572 S.W.2d 300, 302 (Tex. 1978);

- The right to appointed counsel if the alleged contemnor is indigent, Tex. Fam. Code § 157.163(b), Ex parte Gunther, 758 S.W.2d 226, 227 (Tex. 1988);
- The right to a jury trial if the potential punishment exceeds 6 months in jail, Muniz v. Hoffman, 422 U.S. 454, 95 S. Ct. 2178, 2190 (1975), Ex parte Werblud, 536 S.W.2d 542, 546 (Tex. 1976);
- The right to be advised by the court of the right to a jury if punishment could exceed 6 months in jail, Ex parte Griffin, 682 S.W.2d 261, 262 (Tex. 1984); and
- The ability to comply with the court order, Chambers, 898 S.W.2d at 261 (defense of inability must be shown by contemnor), In re Lausch, 177 S.W.3d 144, 155 (Tex. App.—Houston [1st Dist.] 2005, no pet.).

C. CRIMINAL/PUNITIVE

1. The nature of criminal contempt is punitive, to punish past errant behavior, and is most commonly assessed in direct contempt cases. It is an unconditional sentence for punishment or deterrence. Ex parte Johns, 807 S.W.2d 768, 771, (Tex. App.—Dallas, 1991, no pet.).
2. Criminal contempt proceedings for contumacious and disruptive conduct during court proceedings may be dealt with immediately by the judge, unless committed by a court officer.

D. BURDEN OF PROOF

1. A punitive contempt order must be based on proof beyond a reasonable doubt. Ex parte Landry, 144 S.W. 962, 963 (Tex. Crim. App. 1912); Hicks, 108 Sup. Ct. at 1430; Chambers, 898 S.W.2d at 259; R.E.D., 278 S.W.3d at 860.
2. There is a division of authority on the burden of proof in cases addressing coercive contempt.
 - a. Tex. Fam. Code §105.005 provides for a preponderance of evidence standard, cited in In re Smith, 981 S.W.2d 909, 911 (Tex. App.—Houston [1st Dist.] 1988, no writ).
 - b. The Thirteenth Court of Appeals has held that in contempt proceedings to enforce child support, the obligor parent must prove the inability to pay by a preponderance of the evidence. In Interest of R.R.F., 846 S.W.2d 65, 68 (Tex. App.—Corpus Christi 1992).
 - c. But in Travelhost v. Blandford, 68 F.3d 958, 961 (5th Cir. 1995) the Court said, “[i]n a civil contempt proceeding, the movant bears the burden of establishing the elements of contempt by clear and convincing evidence.”

- d. Clear and convincing was also found to be the standard for civil contempt in Alberti v. Klevenhagen, 610 F. Supp. 138, 141 (S.D. Texas 1985); also Ruiz v. McCotter, 661 F. Supp. 112, 116 (S.D. Texas 1986).
- e. However, the court in In re Guerra, 235 S.W.3d 392, 433 (Tex. App.—Corpus Christi 2007) held that contempt for violation of a written court order requires proof beyond a reasonable doubt.

E. JURY

1. Case law has held that there is no general right to a jury trial in cases of contempt. Green v. U.S., 78 S. Ct. 632, 644.
 - a. The Court said, “. . .this Court has never deviated from the view that the constitutional guarantee of trial by jury for crimes and criminal proceedings was not intended to reach criminal contempt.”
 - b. However, offenses considered ‘serious’ entitle the one charged to the 6th Amendment right to a jury. Muniz, 95 S. Ct. at 2190.
2. Under Texas law, punishment of six months incarceration or less and a fine of \$500 or less is considered a petty offense, insufficient to trigger the right to trial by jury. Werblud, 536 S.W.2d at 546.
3. Punishment exceeding six months’ incarceration entitles the contemnor to a jury, and the judge must advise the contemnor of the right to jury. Griffin, 682 S.W.2d at 262.
4. At what point in the contempt proceeding the case is determined to be serious or petty is subject to conflicting authority.
 - a. The court in Ex parte York, 899 S.W.2d 47, 49 (Tex. App.—Waco 1995, no writ) held that “if confinement may exceed six months,” then the contempt offense is serious and constitutional safeguards (i.e., the right to a jury) should be given.
 - b. However, the court in In re Brown, 114 S.W.3d 7, 11 (Tex. App.—Amarillo 2003, no writ) (citing Werblud, 536 S.W.2d at 546), held that the actual punishment imposed determines whether the character of the contempt is serious or petty.

V. CONTEMPT STATUTES

A. TEX. GOV'T CODE §21.002 PROVIDES DEFINITIVE LIMITATIONS ON CONTEMPT

1. Punishment is limited to six months in county jail and/or a fine of \$500.00;
2. Cumulative punishment cannot exceed 18 months; and
3. Court officers held in contempt are entitled to a personal recognizance bond and another judge to determine the validity of the contempt.

B. COURT OFFICERS

1. Tex. Gov't Code §21.002(d) requires that an officer of the court held in contempt by a trial court shall, upon request, be released on personal recognizance until a *de novo* determination of guilt or innocence by another judge assigned by the regional administrative judge. *Ex parte Avila*, 659 S.W.2d 443, 445 (Tex. Crim. App. 1983).
2. An attorney's obscene gesture to opposing counsel during court proceedings was found to be direct contempt, conduct which served no purpose other than to insult and affront the dignity of the court. *Ex parte Reposo*, No. AP-75965, 2009 WL 3478455 (Tex. Crim. App. Oct. 28, 2009) (original proceeding, not designated for publication).
3. Court officers include:
 - a. Attorneys;
 - b. The court reporter, *Guillory v. State*, 557 S.W.2d 118 (Tex. Crim. App 1977);
 - c. Ad litem, Tex. Estates Code § 1054.054; and
 - d. Receivers, *Ex parte Griffiths*, 711 S.W.2d 225 (Tex. 1986).

C. FAMILY CODE

1. There are multiple references to contempt in the Texas Family Code;
 - a. § 157.001(b) - The Court may enforce by contempt a final order for possession of and access to a child as provided in this chapter;
 - b. § 157.424 - The Court may render a clarification order before a motion for contempt is made or heard, in conjunction with a motion for contempt, or after denial of a motion for contempt;
 - c. § 105.001(f) (Temporary Order Before Final Order) - The violation of a temporary restraining order or other order rendered under this section is punishable by contempt...;
 - d. § 81.004(a) (Protective order) - A party who is ordered to pay fees and costs and who does not pay before the date specified by the order may be punished for contempt of court as provided in Tex. Gov't Code § 21.002.

D. ENFORCING ORDER/JUDGEMENT

To be held accountable for contempt of court, the order, whether written or oral, the judgment sought to be enforced must be clear, specific, and unambiguous. Ex parte Slavin, 412 S.W.2d 43, 44 (Tex. 1967); Ex parte Hodges, 625 S.W.2d 304, 306 (Tex. 1981); Ex parte Blasingame, 748 S.W.2d 444, 446 (Tex. 1988).

E. JUDGEMENT OF CONTEMPT

1. The judgment of contempt must be a written order, and must be definite and certain, In re Alexander, 243 S.W.3d 822, 825 (Tex. App.—San Antonio 2007, no writ);
2. The order must clearly state in what respect the court's earlier order was violated, Ex parte Shaklee, 939 S.W.2d 144, 145 (Tex. 1997);
3. The order must notify the contemnor of how he violated the previous order, In re Nesevitch, 93 S.W.3d 510, 513 (Tex. App.—Houston [14th Dist.] 2002, no writ);
4. The order must be signed by the judge within a short, reasonable time after a finding of contempt, Ex parte Calvillo Amaya, 748 S.W.2d 224, 225 (Tex. 1988); Ex parte Whitehead, 908 S.W.2d 68, 70 (Tex. App.—Houston [1st District] 1995, no writ);
5. If the order is punitive, it must specify the exact punishment imposed, Ex parte Mitchell, 783 S.W.2d 703, 706 (Tex. App.—El Paso 1989, no writ);
6. If the order is coercive, it must clearly state what the contemnor must do to purge himself of contempt, Ex parte Proctor, 398 S.W.2d 917, 918 (Tex. 1966); and
7. The judgment may include the contempt finding, the punishment assessed, and the order of commitment to the sheriff, Ex parte Hernandez, 827 S.W.2d 858 (Tex. 1992); also In re Ross, 125 S.W.3d 549 (Tex. App.—Austin, 2003, no writ).

F. COMMITMENT ORDER

1. The judgment of contempt must be accompanied by an equally detailed order of commitment to the sheriff if the contemnor is to be incarcerated.
2. Verbal directives to the sheriff will not suffice. Ex parte Whitehead 908 S.W.2d at 70.
3. No person may be held for contempt without a written order of commitment. Ex parte Supercinski, 561 S.W.2d 482 (Tex. Crim. App. 1977).
4. The order of commitment must provide the precise punishment assessed or, in the case of coercive contempt, the things contemnor must do to be purged of contempt.

G. CONCLUSION

1. Although the term “contempt of court” conjures images of wide, unchecked authority among judges, in reality the power is quite limited.
2. The high percentage of contempt judgments set aside by the appellate courts makes clear the strict and exacting standards that apply.
3. The existence of the inherent power of the court to find a person in contempt cannot be doubted, but adherence to the precise standards under which it may be exercised presents a formidable challenge to the judge called upon to invoke that power.
4. “The power to punish for contempt should only be exercised with caution.” *Ex parte Arnold*, 503 S.W.2d 529, 534 (Tex. Crim. App. 1974).

VI. APPENDIX A. DIRECT CONTEMPT

CONDUCT OCCURRING IN THE PRESENCE OF THE COURT NOT INVOLVING AN OFFICER OF THE COURT

A. CONTEMPTUOUS CONDUCT

1. The offending party has engaged in conduct which you consider may significantly disrupt the orderly proceedings of the court; OR
2. The offending party has engaged in conduct that you consider may cause the proceedings to be conducted without the appropriate dignity; AND
 - a. You personally witnessed the disruptive or inappropriate conduct, or heard the disruptive or inappropriate words spoken, such that additional testimony is not necessary to determine if the conduct was contemptuous; AND
 - b. The disruptive or inappropriate conduct or words occurred while the court was in session; AND
 - The offending party is NOT an officer of the court; OR
 - The offending party is an officer of the court but is not acting in that capacity at the time of the offending conduct (e.g. when an attorney is acting as a witness).

B. IMMEDIATE CONSIDERATIONS

1. Did the act or behavior occur in the presence of a jury? If it did, the jury should be immediately removed from the courtroom, with an appropriate instruction being given to the jury according to the circumstances.
2. Did the offending party make an attempt to apologize or otherwise purge the contempt?
 - a. If the apology is genuine and sufficient, the offending party should be admonished concerning your willingness to accept the apology and your tolerance for similar future conduct.
 - b. If the apology is disingenuous or otherwise not acceptable, you must decide whether or not the matter needs to be immediately addressed.
3. Is the offending party entitled to notice of a contempt proceeding? "Summary punishment for direct contempt is justified only when the contemptuous act is committed in the presence of the court and there is an exigent situation that...requires the judge to act immediately to quell disruption, violence, disrespect, or physical abuse." See *In re Bell*, 894 S.W.2d 119 (Tex. Spec. Ct. Rev. 1995).
4. Is the offending party entitled to counsel? There is no right to counsel in a summary contempt proceeding. If the exigent circumstances do not call for a summary proceeding, and if the potential punishment includes the possibility of the loss of liberty, the offending party is entitled to be represented by counsel, including the right to court appointed counsel if the offending party is indigent.

5. Is the offending party entitled to a jury trial? There is no right to a jury trial, as long as the total period of confinement does not exceed six months, or the total fines do not exceed \$500.00. If there are multiple acts of conduct, and if you are considering whether to cumulate the period of confinement or fine, and the cumulated period of confinement exceeds six months, or the cumulated fine exceeds \$500.00, then you must provide the offending party with the opportunity for a jury trial.

C. HOLDING THE OFFENDING PARTY IN CONTEMPT

1. If, after considering all of the above, you still feel that the conduct requires an immediate finding of contempt, then, in the presence of a court reporter and on the record, you should notify the offending party that you consider that conduct to be an act of contempt.
2. You should notify the offending party as to why you consider the conduct to have disrupted the orderly proceedings of the court or caused the proceeding to be conducted without appropriate dignity.
3. You should assess an appropriate punishment. Each act of contempt is punishable by confinement in the county jail for a period of up to six months, or by a fine of up to \$500.00, or by both confinement and a fine.

D. DRAFTING AN ORDER OF CONTEMPT

1. A Judgment of Contempt should be drafted immediately after the conclusion of the contempt proceeding. A person found to be in contempt may not be confined in the county jail without the entry of a written judgment.
2. The Judgment of Contempt should contain a recitation specifically identifying each act of contempt, and should include the following:
 - a. The date of occurrence;
 - b. A recitation of the act or behavior made the subject of the contempt proceeding;
 - c. A recitation of how the act or behavior disrupted the orderly proceedings of the court; or how the act or behavior caused the proceedings to be conducted without appropriate dignity;
 - d. The punishment assessed for each act of contempt;
 - e. If multiple punishments are assessed, whether the individual punishments are to be cumulated or discharged separately;
 - f. If the court seeks to secure future compliance with an order of the court:
 - g. Clearly identify the order of the court;
 - h. Identify the specific conduct necessary to comply with the order of the court;
 - i. Include a finding as to whether or not the offending party has the present ability to comply with the order of the court;
 - j. Include an order that the sentence of contempt be executed; or

- k. If imposition of the criminal sentence is to be suspended, a statement of that fact;
- l. The length of suspension; and
- m. The terms and conditions of the suspended sentence.
- n. For the fair and efficient administration of justice, it is recommended that the order include a provision ordering the offending party to appear before the offended court at a future date and time to then and there demonstrate the offending party's compliance with the terms and conditions of suspension of sentence.

E. ENFORCING YOUR ORDER OF CONTEMPT

1. If the punishment includes confinement, remand the offending party to the custody of county sheriff along with an Order of Commitment.
 - a. The Order of Commitment should be addressed to the Sheriff of the county in which the offending party is to be committed;
 - b. Recite the offending party's full legal name;
 - c. State that the offense for which the offending party is being confined is contempt;
 - d. State the punishment imposed; and
 - e. Order that the offending party be committed to the county jail until the judgment is satisfied;
 - f. Order the bailiff to execute the commitment by placing the offending party in jail. Furnish the offending party with a copy of the Judgment of Contempt and the Order of Commitment.
2. If the punishment includes a fine, conduct a hearing pursuant to Art. 43.03 of the Tex. Code Crim. Proc., to determine whether the offending party has the present ability to discharge the fine.
3. If the offending party claims to be indigent, have that party complete a financial information affidavit.
4. If the offending party is indigent, consider all the alternative methods of discharging the fine and costs as provided in Art. 43.09 of the Tex. Code Crim. Proc., such as a payment plan or community service.
5. Enter an order either finding that the offending party has the present ability to pay the fine, or specifying the alternate method for discharging the fine.

F. POST-COMMITMENT APPELLATE RELIEF

1. The offending party may choose to accept the sentence and not seek any relief.
2. Appeal of a Judgment of Contempt is through writ of habeas corpus filed with a Texas Court of Appeals, the Texas Court of Criminal Appeals, the Texas Supreme Court, or a Federal District Court.

VII. APPENDIX B. DIRECT CONTEMPT

CONDUCT OCCURRING IN THE PRESENCE OF THE COURT INVOLVING AN OFFICER OF THE COURT

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 - a. If the apology is genuine and sufficient, the offending party should be admonished concerning your willingness to accept the apology and your tolerance for similar future conduct.
 - b. If the apology is disingenuous or otherwise not acceptable, you must decide whether or not the matter needs to be immediately addressed.
3. Is the offending party entitled to notice of a contempt proceeding? Summary punishment for direct contempt is justified only when the contemptuous act is committed in the presence of the court and there is an exigent situation which requires the judge to act immediately to quell the disruption, violence, disrespect, or physical abuse. See Bell, 894 S.W.2d at 119.
4. Is the offending party entitled to counsel? There is no right to counsel in a summary contempt proceeding. If the exigent circumstances do not call for a summary proceeding, and if the potential punishment includes the possibility of the loss of liberty, the offending party is entitled to be represented by counsel, including the right to court appointed counsel if the offending party is indigent.
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acts of conduct, and if you are considering whether to cumulate the period of confinement or fine, and the cumulated period of confinement exceeds six months, or the cumulated fine exceeds \$500.00, then you must provide the offending party with the opportunity for a jury trial.

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2. You should notify the offending party as to why you consider the conduct to have disrupted the orderly proceedings of the court or caused the proceeding to be conducted without appropriate dignity.
3. You should assess an appropriate punishment. Each act of contempt is punishable by confinement in the county jail for a period of up to six months, or by a fine of up to \$500.00, or by both confinement and a fine.

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 - d. The punishment assessed for each act of contempt;
 - e. If multiple punishments are assessed, whether the individual punishments are to be cumulated or discharged separately;
 - f. If the court seeks to secure future compliance with an order of the court:
 - g. Clearly identify the order of the court;
 - h. Identify the specific conduct necessary to comply with the order of the court;
 - i. Include a finding as to whether or not the offending party has the present ability to comply with the order of the court;
 - j. Include an order that the sentence of contempt be executed; or
 - k. If imposition of the criminal sentence is to be suspended, a statement of that fact; and

- l. The length of suspension; and
- m. The terms and conditions of the suspended sentence.
- n. For the fair and efficient administration of justice, it is recommended that the order include a provision ordering the offending party to appear before the offended court at a future date and time to then and there demonstrate the offending party's compliance with the terms and conditions of suspension of sentence.

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2. The Order of Commitment should:
 - a. Be addressed to the Sheriff of the county in which the offending party is to be committed;
 - b. Recite the offending party's full legal name;
 - c. State that the offense for which the offending party is being confined is contempt;
 - d. State the punishment imposed;
 - e. Furnish the offending party with a copy of the Judgment of Contempt and the Order of Commitment; and
 - f. Order
 - the offending party be committed to the county jail until the judgment is satisfied; or
 - the bailiff to execute the commitment by placing the offending party in jail.
3. If the punishment includes a fine, conduct a hearing pursuant to Art. 43.03 of the Tex. Code Crim. Proc. to determine whether the offending party has the present ability to discharge the fine.
4. If the offending party claims to be indigent, have that party complete a financial information affidavit.
5. If the offending party is indigent, consider all the alternative methods of discharging the fine and costs as provided in Art. 43.09 of the Tex. Code Crim. Proc., such as a payment plan or community service.
6. Enter an order either finding that the offending party has the present ability to pay the fine, or specifying the alternate method for discharging the fine.

F. POST-COMMITMENT APPELLATE RELIEF

1. The offending party may choose to accept the sentence and not seek any relief.
2. If the offending party chooses not to accept the sentence, you must request the Presiding Judge of your Administrative Judicial Region to appoint a county or district judge to preside over a *de novo* contempt proceeding. See Appendix C.

3. If the offending party files a written request for personal bond, you **MUST** grant the request, set the bond and release the offending party.
4. The offending party may also seek review of your original Judgment of Contempt or a *de novo* Judgment of Contempt through writ of habeas corpus filed with a Texas Court of Appeals, the Texas Court of Criminal Appeals, the Texas Supreme Court, or a Federal District Court.

and the proper and effective administration of justice by causing unnecessary delay and the waste of judicial resources.

3. Legal Principles

- 3.01 In determining whether or not the Respondent is in contempt, this Court is cognizant of and guided by the principle that the essence of contempt is not an offense against a particular judge's personal sensibilities, but is instead an affront to the authority, justice, or dignity of the court, which conduct obstructs the proper and effective administration of justice. *Brown v. United States*, 356 U.S. 148 (1958).
- 3.02 Contempt has been defined as an act that is reasonably calculated to impede, embarrass, or obstruct the court in the lawful discharge of its duties. *Ex parte Soape*, 347 S.W.2d 621 (Tex. 1961).

4. Range of Punishment

- 4.01 The range of punishment for contempt is a fine of not more than \$500.00, or confinement in the county jail for a period of not more than six months, or by both a fine and a period of confinement.

5. Assigned Judge

- 5.01 Pursuant to TEX. GOV'T CODE ANN. §21.002(d) (West 2004), the Honorable [Administrative Judge], presiding judge of this administrative region, has appointed the Honorable [Assigned Judge], to determine the guilt or innocence of the Respondent.

6. Show Cause Order

- 6.01 IT IS THEREFORE ORDERED that the Respondent, Joe Lawyer, appear before this Court at _____ on the ____ day _____, 2____, to show cause why he should not be held in contempt of court and punished accordingly.

7. Notice of Show Cause Order

- 7.01 IT IS FURTHER ORDERED that the Clerk of this Court shall cause a copy of this notice to be sent to the Respondent by certified mail, return receipt requested, at his current address according to the records of the District Clerk. A copy of the notice shall also be provided to the Honorable _____, Administrative Judge, and to the Honorable, _____, presiding judge by assignment.

SIGNED this ____ day of _____, 2____.

 [Offended Court Judge]
 _____ District Court
 _____ County, Texas