



Quick Legal Reference: Counsel in Municipal Court

Right to Counsel

Statutes **Right to counsel in criminal proceedings in state courts**
1.051(a), CCP Gideon v Wainwright, 372 U.S. 335 (1963)

Right to counsel when charged with an offense resulting in actual imprisonment, regardless of classification of the offense
Argersinger v Hamlin, 407 U.S. 25 (1972)

A knowing and intelligent waiver of the right to counsel is required
Warr v State, 591 S.W.2d 832 (Tex. Crim. App. 1979)

Right to Appointed Counsel

Statutes **The 6th and 14th Amendments require only that no indigent criminal defendant be sentenced to a term of imprisonment unless the State had afforded him the right to appointed counsel.**
1.051(c), CCP Scott v Illinois, 440 U.S. 367 (1979)
26.04, CCP

Not entitled to appointment of counsel since the jury-imposed sentence did not include the possibility of actual imprisonment.
Fortner v State, 764 S.W.2d 934 (Tex. App. – FW 1987, no pet.)

When only a fine is actually assessed in a misdemeanor case, the judgment is not void even though the defendant was indigent, was not represented by counsel, and was convicted under a statute which included imprisonment as a possible punishment
Empy v State, 571 S.W.2d 526 (Tex. Crim. App 1978)

Appointing Counsel for the Indigent

Interest of Justice

An indigent defendant is entitled to have an attorney appointed (1) in any adversary judicial proceeding that may result in confinement and (2) any other criminal proceeding if the court concludes that the interests of justice require representation. 1.051(c), Code of Criminal Procedure.

Contempt

Appearance without counsel at a contempt hearing requires the court to advise of the right to counsel and the right to request the appointment of counsel if indigent and cannot afford counsel.

Ex parte Goodman, 742 S.W.2d 536 (Tex. App. – FW 1987, no pet.)