

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 17A. CORPORATIONS AND ASSOCIATIONS

Art. 17A.01. APPLICATION AND DEFINITIONS. (a) This chapter sets out some of the procedural rules applicable to the criminal responsibility of corporations and associations. Where not in conflict with this chapter, the other chapters of this code apply to corporations and associations.

(b) In this code, unless the context requires a different definition:

(1) "Agent" means a director, officer, employee, or other person authorized to act in behalf of a corporation or association.

(2) "Association" means a government or governmental subdivision or agency, trust, partnership, or two or more persons having a joint or common economic interest.

(3) "High managerial agent" means:

(A) an officer of a corporation or association;

(B) a partner in a partnership; or

(C) an agent of a corporation or association who has duties of such responsibility that his conduct may reasonably be assumed to represent the policy of the corporation or association.

(4) "Person," "he," and "him" include corporation and association.

Added by Acts 1973, 63rd Leg., p. 979, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.02. ALLEGATION OF NAME. (a) In alleging the name of a defendant corporation, it is sufficient to state in the complaint, indictment, or information the corporate name, or to state any name or designation by which the corporation is known or may be identified. It is not necessary to allege that the defendant was lawfully incorporated.

(b) In alleging the name of a defendant association it is sufficient to state in the complaint, indictment, or information the association's name, or to state any name or designation by which the association is known or may be identified, or to state the name

or names of one or more members of the association, referring to the unnamed members as "others." It is not necessary to allege the legal form of the association.

Added by Acts 1973, 63rd Leg., p. 979, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.03. SUMMONING CORPORATION OR ASSOCIATION. (a) When a complaint is filed or an indictment or information presented against a corporation or association, the court or clerk shall issue a summons to the corporation or association. The summons shall be in the same form as a *capias* except that:

(1) it shall summon the corporation or association to appear before the court named at the place stated in the summons; and

(2) it shall be accompanied by a certified copy of the complaint, indictment, or information; and

(3) it shall provide that the corporation or association appear before the court named at or before 10 a.m. of the Monday next after the expiration of 20 days after it is served with summons, except when service is made upon the secretary of state or the Commissioner of Insurance, in which instance the summons shall provide that the corporation or association appear before the court named at or before 10 a.m. of the Monday next after the expiration of 30 days after the secretary of state or the Commissioner of Insurance is served with summons.

(b) No individual may be arrested upon a complaint, indictment, information, judgment, or sentence against a corporation or association.

Added by Acts 1973, 63rd Leg., p. 980, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Amended by Acts 1987, 70th Leg., ch. 46, Sec. 10, eff. Sept. 1, 1987.

Art. 17A.04. SERVICE ON CORPORATION. (a) Except as provided in Paragraph (d) of this article, a peace officer shall serve a summons on a corporation by personally delivering a copy of it to the corporation's registered agent. However, if a registered agent has not been designated, or cannot with reasonable diligence be

found at the registered office, then the peace officer shall serve the summons by personally delivering a copy of it to the president or a vice-president of the corporation.

(b) If the peace officer certifies on the return that he diligently but unsuccessfully attempted to effect service under Paragraph (a) of this article, or if the corporation is a foreign corporation that has no certificate of authority, then he shall serve the summons on the secretary of state by personally delivering a copy of it to him, or to the deputy secretary of state, or to any clerk in charge of the corporation department of his office. On receipt of the summons copy, the secretary of state shall immediately forward it by certified or registered mail, return receipt requested, addressed to the defendant corporation at its registered or principal office in the state or country under whose law it was incorporated.

(c) The secretary of state shall keep a permanent record of the date and time of receipt and his disposition of each summons served under Paragraph (b) of this article together with the return receipt.

(d) The method of service on a corporation regulated under the Insurance Code is governed by that code.

Added by Acts 1973, 63rd Leg., p. 980, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Amended by:

Acts 2005, 79th Leg., Ch. 41 (H.B. 297), Sec. 15, eff. September 1, 2005.

Art. 17A.05. SERVICE ON ASSOCIATION. (a) Except as provided in Paragraph (b) of this article, a peace officer shall serve a summons on an association by personally delivering a copy of it:

(1) to a high managerial agent at any place where business of the association is regularly conducted; or

(2) if the peace officer certifies on the return that he diligently but unsuccessfully attempted to serve a high managerial agent, to any employee of suitable age and discretion at any place where business of the association is regularly conducted; or

(3) if the peace officer certifies on the return that he

diligently but unsuccessfully attempted to serve a high managerial agent, or employee of suitable age and discretion, to any member of the association.

(b) The method of service on an association regulated under the Insurance Code is governed by that code.

Added by Acts 1973, 63rd Leg., p. 981, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.06. APPEARANCE. (a) In all criminal actions instituted against a corporation or association, in which original jurisdiction is in a district or county-level court:

(1) appearance is for the purpose of arraignment;

(2) the corporation or association has 10 full days after the day the arraignment takes place and before the day the trial begins to file written pleadings.

(b) In all criminal actions instituted against a corporation or association, in which original jurisdiction is in a justice court or corporation court:

(1) appearance is for the purpose of entering a plea; and

(2) 10 full days must elapse after the day of appearance before the corporation or association may be tried.

Added by Acts 1973, 63rd Leg., p. 981, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.07. PRESENCE OF CORPORATION OR ASSOCIATION. (a) A defendant corporation or association appears through counsel.

(b) If a corporation or association does not appear in response to summons, or appears but fails or refuses to plead:

(1) it is deemed to be present in person for all purposes; and

(2) the court shall enter a plea of not guilty in its behalf; and

(3) the court may proceed with trial, judgment, and sentencing.

(c) If, having appeared and entered a plea in response to summons, a corporation or association is absent without good cause at any time during later proceedings:

(1) it is deemed to be present in person for all purposes;
and

(2) the court may proceed with trial, judgment, or sentencing.

Added by Acts 1973, 63rd Leg., p. 981, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.08. PROBATION. The benefits of the adult probation laws shall not be available to corporations and associations.

Added by Acts 1973, 63rd Leg., p. 981, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.

Art. 17A.09. NOTIFYING ATTORNEY GENERAL OF CORPORATION'S CONVICTION. If a corporation is convicted of an offense, or if a high managerial agent is convicted of an offense committed in the conduct of the affairs of the corporation, the court shall notify the attorney general in writing of the conviction when it becomes final and unappealable. The notice shall include:

(1) the corporation's name, and the name of the corporation's registered agent and the address of the registered office, or the high managerial agent's name and address, or both; and

(2) certified copies of the judgment and sentence and of the complaint, information, or indictment on which the judgment and sentence were based.

Added by Acts 1973, 63rd Leg., p. 981, ch. 399, Sec. 2(D), eff. Jan. 1, 1974.