

CODE OF CRIMINAL PROCEDURE  
TITLE 1. CODE OF CRIMINAL PROCEDURE  
CHAPTER 33. THE MODE OF TRIAL

Art. 33.01. JURY SIZE. (a) Except as provided by Subsection (b), in the district court, the jury shall consist of twelve qualified jurors. In the county court and inferior courts, the jury shall consist of six qualified jurors.

(b) In a trial involving a misdemeanor offense, a district court jury shall consist of six qualified jurors.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.  
Amended by Acts 2003, 78th Leg., ch. 466, Sec. 1, eff. Jan. 1, 2004.

Art. 33.011. ALTERNATE JURORS. (a) In district courts, the judge may direct that not more than four jurors in addition to the regular jury be called and impaneled to sit as alternate jurors. In county courts, the judge may direct that not more than two jurors in addition to the regular jury be called and impaneled to sit as alternate jurors.

(b) Alternate jurors in the order in which they are called shall replace jurors who, prior to the time the jury renders a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment, become or are found to be unable or disqualified to perform their duties or are found by the court on agreement of the parties to have good cause for not performing their duties. Alternate jurors shall be drawn and selected in the same manner, shall have the same qualifications, shall be subject to the same examination and challenges, shall take the same oath, and shall have the same functions, powers, facilities, security, and privileges as regular jurors. An alternate juror who does not replace a regular juror shall be discharged after the jury has rendered a verdict on the guilt or innocence of the defendant and, if applicable, the amount of punishment.

Acts 1983, 68th Leg., p. 4594, ch. 775, Sec. 2, eff. Aug. 29, 1983.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 846 (H.B. [1086](#)), Sec. 1, eff.

September 1, 2007.

Art. 33.02. FAILURE TO REGISTER. Failure to register to vote shall not disqualify any person from jury service.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 3143, ch. 827, Sec. 6, eff. Aug. 31, 1981.

Art. 33.03. PRESENCE OF DEFENDANT. In all prosecutions for felonies, the defendant must be personally present at the trial, and he must likewise be present in all cases of misdemeanor when the punishment or any part thereof is imprisonment in jail; provided, however, that in all cases, when the defendant voluntarily absents himself after pleading to the indictment or information, or after the jury has been selected when trial is before a jury, the trial may proceed to its conclusion. When the record in the appellate court shows that the defendant was present at the commencement, or any portion of the trial, it shall be presumed in the absence of all evidence in the record to the contrary that he was present during the whole trial. Provided, however, that the presence of the defendant shall not be required at the hearing on the motion for new trial in any misdemeanor case.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1979, 66th Leg., p. 1832, ch. 745, Sec. 1, eff. Aug. 27, 1979.

Art. 33.04. MAY APPEAR BY COUNSEL. In other misdemeanor cases, the defendant may, by consent of the State's attorney, appear by counsel, and the trial may proceed without his personal presence.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 33.05. ON BAIL DURING TRIAL. If the defendant is on bail when the trial commences, such bail shall be considered as discharged if he is acquitted. If a verdict of guilty is returned against him, the discharge of his bail shall be governed by other provisions of this Code.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 33.06. SURETIES BOUND IN CASE OF MISTRIAL. If there be a mistrial in a felony case, the original sureties, if any, of the defendant shall be still held bound for his appearance until they surrender him in accordance with the provisions of this Code.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 33.07. RECORD OF CRIMINAL ACTIONS. Each clerk of a court of record having criminal jurisdiction shall keep a record in which shall be set down the style and file number of each criminal action, the nature of the offense, the names of counsel, the proceedings had therein, and the date of each proceeding.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 628 (H.B. 587), Sec. 3, eff. September 1, 2007.

Art. 33.08. TO FIX DAY FOR CRIMINAL DOCKET. The district courts and county courts shall have control of their respective dockets as to the settings of criminal cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 33.09. JURY DRAWN. Jury panels, including special venires, for the trial of criminal cases shall be selected and summoned (with return on summons) in the same manner as the selection of panels for the trial of civil cases except as otherwise provided in this Code.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.