

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 27. THE PLEADING IN CRIMINAL ACTIONS

Art. 27.01. INDICTMENT OR INFORMATION. The primary pleading in a criminal action on the part of the State is the indictment or information.

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

Art. 27.02. DEFENDANT'S PLEADINGS. The pleadings and motions of the defendant shall be:

(1) A motion to set aside or an exception to an indictment or information for some matter of form or substance;

(2) A special plea as provided in Article 27.05 of this code;

(3) A plea of guilty;

(4) A plea of not guilty;

(5) A plea of nolo contendere, the legal effect of which shall be the same as that of a plea of guilty, except that such plea may not be used against the defendant as an admission in any civil suit based upon or growing out of the act upon which the criminal prosecution is based;

(6) An application for probation, if any;

(7) An election, if any, to have the jury assess the punishment if he is found guilty; and

(8) Any other motions or pleadings that are by law permitted to be filed.

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

Amended by Acts 1967, 60th Leg., p. 1738, ch. 659, Sec. 17, eff.

Aug. 28, 1967; Acts 1973, 63rd Leg., p. 968, ch. 399, Sec. 2(A), eff. Jan. 1, 1974.

Art. 27.03. MOTION TO SET ASIDE INDICTMENT. In addition to any other grounds authorized by law, a motion to set aside an indictment or information may be based on the following:

1. That it appears by the records of the court that the indictment was not found by at least nine grand jurors, or that the information was not based upon a valid complaint;

2. That some person not authorized by law was present when the grand jury was deliberating upon the accusation against the defendant, or was voting upon the same; and

3. That the grand jury was illegally impaneled; provided, however, in order to raise such question on motion to set aside the indictment, the defendant must show that he did not have an opportunity to challenge the array at the time the grand jury was impaneled.

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

Art. 27.04. MOTION TRIED BY JUDGE. An issue of fact arising upon a motion to set aside an indictment or information shall be tried by the judge without a jury.

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

Art. 27.05. DEFENDANT'S SPECIAL PLEA. A defendant's only special plea is that he has already been prosecuted for the same or a different offense arising out of the same criminal episode that was or should have been consolidated into one trial, and that the former prosecution:

- (1) resulted in acquittal;
- (2) resulted in conviction;
- (3) was improperly terminated; or

(4) was terminated by a final order or judgment for the defendant that has not been reversed, set aside, or vacated and that necessarily required a determination inconsistent with a fact that must be established to secure conviction in the subsequent prosecution.

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

Amended by Acts 1973, 63rd Leg., p. 969, ch. 399, Sec. 2(A), eff. Jan. 1, 1974.

Art. 27.06. SPECIAL PLEA VERIFIED. Every special plea shall be verified by the affidavit of the defendant.

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

Art. 27.07. SPECIAL PLEA TRIED. All issues of fact presented

by a special plea shall be tried by the trier of the facts on the trial on the merits.

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

Art. 27.08. EXCEPTION TO SUBSTANCE OF INDICTMENT. There is no exception to the substance of an indictment or information except:

1. That it does not appear therefrom that an offense against the law was committed by the defendant;

2. That it appears from the face thereof that a prosecution for the offense is barred by a lapse of time, or that the offense was committed after the finding of the indictment;

3. That it contains matter which is a legal defense or bar to the prosecution; and

4. That it shows upon its face that the court trying the case has no jurisdiction thereof.

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

Art. 27.09. EXCEPTION TO FORM OF INDICTMENT. Exceptions to the form of an indictment or information may be taken for the following causes only:

1. That it does not appear to have been presented in the proper court as required by law;

2. The want of any requisite prescribed by Articles [21.02](#) and [21.21](#).

3. That it was not returned by a lawfully chosen or empaneled grand jury.

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

Art. 27.10. WRITTEN PLEADINGS. All motions to set aside an indictment or information and all special pleas and exceptions shall be in writing.

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

Art. 27.11. TEN DAYS ALLOWED FOR FILING PLEADINGS. In all cases the defendant shall be allowed ten entire days, exclusive of all fractions of a day after his arrest, and during the term of the

court, to file written pleadings.

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

Art. 27.12. TIME AFTER SERVICE. In cases where the defendant is entitled to be served with a copy of the indictment, he shall be allowed the ten days time mentioned in the preceding Article to file written pleadings after such service.

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

Art. 27.13. PLEA OF GUILTY OR NOLO CONTENDERE IN FELONY. A plea of "guilty" or a plea of "nolo contendere" in a felony case must be made in open court by the defendant in person; and the proceedings shall be as provided in Articles 26.13, 26.14 and 27.02. If the plea is before the judge alone, same may be made in the same manner as is provided for by Articles 1.13 and 1.15.

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

Art. 27.14. PLEA OF GUILTY OR NOLO CONTENDERE IN MISDEMEANOR.

(a) A plea of "guilty" or a plea of "nolo contendere" in a misdemeanor case may be made either by the defendant or his counsel in open court; in such case, the defendant or his counsel may waive a jury, and the punishment may be assessed by the court either upon or without evidence, at the discretion of the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a), mail or deliver in person to the court a plea of "guilty" or a plea of "nolo contendere" and a waiver of jury trial. The defendant may also request in writing that the court notify the defendant, at the address stated in the request, of the amount of an appeal bond that the court will approve. If the court receives a plea and waiver before the time the defendant is scheduled to appear in court, the court shall dispose of the case without requiring a court appearance by the defendant. If the court receives a plea and waiver after the time the defendant is scheduled to appear in court but at least five business days before a scheduled trial date, the court shall dispose of the case without requiring a court appearance by the defendant. The court shall

notify the defendant either in person or by regular mail of the amount of any fine or costs assessed in the case, information regarding the alternatives to the full payment of any fine or costs assessed against the defendant, if the defendant is unable to pay that amount, and, if requested by the defendant, the amount of an appeal bond that the court will approve. Except as otherwise provided by this code, the defendant shall pay any fine or costs assessed or give an appeal bond in the amount stated in the notice before the 31st day after receiving the notice. This subsection does not apply to a defendant charged with a misdemeanor involving family violence, as defined by Section 71.004, Family Code.

(c) In a misdemeanor case for which the maximum possible punishment is by fine only, payment of a fine or an amount accepted by the court constitutes a finding of guilty in open court as though a plea of nolo contendere had been entered by the defendant and constitutes a waiver of a jury trial in writing.

(d) If written notice of an offense for which maximum possible punishment is by fine only or of a violation relating to the manner, time, and place of parking has been prepared, delivered, and filed with the court and a legible duplicate copy has been given to the defendant, the written notice serves as a complaint to which the defendant may plead "guilty," "not guilty," or "nolo contendere." If the defendant pleads "not guilty" to the offense or fails to appear based on the written notice, a complaint shall be filed that conforms to the requirements of Chapter 45 of this code, and that complaint serves as an original complaint. A defendant may waive the filing of a sworn complaint and elect that the prosecution proceed on the written notice of the charged offense if the defendant agrees in writing with the prosecution, signs the agreement, and files it with the court.

(e)(1) Before accepting a plea of guilty or a plea of nolo contendere by a defendant charged with a misdemeanor involving family violence, as defined by Section 71.004, Family Code, the court shall admonish the defendant by using the following statement:

"If you are convicted of a misdemeanor offense involving violence where you are or were a spouse, intimate partner, parent,

or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(2) The court may provide the admonishment under Subdivision (1) orally or in writing.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1967, 60th Leg., p. 1738, ch. 659, Sec. 18, eff. Aug. 28, 1967; Acts 1977, 65th Leg., p. 2143, ch. 858, Sec. 1, eff. June 16, 1977; Acts 1979, 66th Leg., p. 450, ch. 207, Sec. 1, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 1257, ch. 273, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 87, Sec. 1, eff. Sept. 1, 1985.

Subsecs. (b) to (d) amended by Acts 1993, 73rd Leg., ch. 76, Sec. 1, eff. Sept. 1, 1993; Subsec. (c) amended by Acts 2001, 77th Leg., ch. 285, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 473 (S.B. 413), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1121 (H.B. 1544), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1379 (S.B. 1236), Sec. 3, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. 1913), Sec. 3, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 770 (H.B. 1528), Sec. 1, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 770 (H.B. 1528), Sec. 2, eff. September 1, 2019.

Art. 27.15. CHANGE OF VENUE TO PLEAD GUILTY. When in any county which is located in a judicial district composed of more than

one county, a party is charged with a felony and the maximum punishment therefor shall not exceed fifteen years, and the district court of said county is not in session, such party may, if he desires to plead guilty, or enter a plea of nolo contendere, make application to the district judge of such district for a change of venue to the county in which said court is in session, and said district judge may enter an order changing the venue of said cause to the county in which the court is then in session, and the defendant may plead guilty or enter a plea of nolo contendere to said charge in said court to which the venue has been changed.

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

Art. 27.16. PLEA OF NOT GUILTY, HOW MADE. (a) The plea of not guilty may be made orally by the defendant or by his counsel in open court. If the defendant refuses to plead, the plea of not guilty shall be entered for him by the court.

(b) A defendant charged with a misdemeanor for which the maximum possible punishment is by fine only may, in lieu of the method provided in Subsection (a) of this article, mail to the court a plea of not guilty.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.
Amended by Acts 1977, 65th Leg., p. 2143, ch. 858, Sec. 2, eff. June 16, 1977.

Art. 27.17. PLEA OF NOT GUILTY CONSTRUED. The plea of not guilty shall be construed to be a denial of every material allegation in the indictment or information. Under this plea, evidence to establish the insanity of defendant, and every fact whatever tending to acquit him of the accusation may be introduced, except such facts as are proper for a special plea under Article [27.05](#).

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

Art. 27.18. PLEA OR WAIVER OF RIGHTS BY VIDEOCONFERENCE. (a) Notwithstanding any provision of this code requiring that a plea or a waiver of a defendant's right be made in open court, a court may accept the plea or waiver by videoconference to the court

if:

(1) the defendant and the attorney representing the state file with the court written consent to the use of videoconference;

(2) the videoconference provides for a simultaneous, compressed full motion video, and interactive communication of image and sound between the judge, the attorney representing the state, the defendant, and the defendant's attorney; and

(3) on request of the defendant, the defendant and the defendant's attorney are able to communicate privately without being recorded or heard by the judge or the attorney representing the state.

(b) On motion of the defendant or the attorney representing the state or in the court's discretion, the court may terminate an appearance by videoconference at any time during the appearance and require an appearance by the defendant in open court.

(c) A record of the communication shall be made by a court reporter or by electronic recording and preserved by the court reporter or by electronic recording until all appellate proceedings have been disposed of. A court reporter or court recorder is not required to transcribe or make a duplicate electronic recording of a plea taken under this article unless an appeal is taken in the case and a party requests a transcript.

(c-1) The defendant may obtain a copy of the record, including any electronic recording, on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(c-2) The loss or destruction of or failure to create a court record or an electronic recording of a plea entered under this article is not alone sufficient grounds for a defendant to withdraw the defendant's plea or to request the court to set aside a conviction, sentence, or plea.

(d) A defendant who is confined in a county other than the county in which charges against the defendant are pending may use the videoconference method provided by this article or by Article 15.17 to enter a plea or waive a right in the court with

jurisdiction over the case.

(e) A defendant who enters a plea or waiver under Subsection (d):

(1) consents to venue in the county in which the court receiving the plea or waiver is located; and

(2) waives any claim of error related to venue.

(f) Subsection (e) does not prohibit a court from granting a defendant's motion for a change of venue during the trial of the defendant.

(g) If a defendant enters a plea of guilty or nolo contendere under Subsection (d), the attorney representing the state may request at the time the plea is entered that the defendant submit a fingerprint of the defendant suitable for attachment to the judgment. On request for a fingerprint under this subsection, the county in which the defendant is confined shall obtain a fingerprint of the defendant and use first-class mail or other means acceptable to the attorney representing the state and the county to forward the fingerprint to the court accepting the plea. Added by Acts 1997, 75th Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. [2120](#)), Sec. 6, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1031 (H.B. [2847](#)), Sec. 5, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1341 (S.B. [1233](#)), Sec. 6, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 5, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 6, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 7, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 8, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 9, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. [3165](#)), Sec. 10,

eff. September 1, 2017.

Art. 27.19. PLEA BY CERTAIN DEFENDANTS.

(a) Notwithstanding any other provision of this code, a court shall accept a plea of guilty or nolo contendere from a defendant who is confined in a penal institution if the plea is made:

(1) in accordance with the procedure established by Article 27.18; or

(2) in writing, including a writing delivered by United States mail or secure electronic or facsimile transmission, before the appropriate court having jurisdiction in the county in which the penal institution is located, provided that:

(A) the defendant is notified by the court of original jurisdiction of the right to counsel and the procedures for requesting appointment of counsel, and is provided a reasonable opportunity to request a court-appointed lawyer;

(B) if the defendant elects to proceed without counsel, the defendant must waive the right to counsel in accordance with Article 1.051;

(C) the defendant must waive the right to be present at the taking of the plea or to have counsel present, if the defendant has counsel; and

(D) if the defendant is charged with a felony, judgment and sentence are rendered in accordance with the conditions and the procedure established by Article 42.14(b).

(b) In this article, "penal institution" has the meaning assigned by Section 1.07, Penal Code.

(c) Before accepting a plea submitted under Subsection (a)(2), the court shall verify that the person submitting the plea is:

(1) the defendant named in the information or indictment; or

(2) a person with legal authority to act for the defendant named in the information or indictment.

Added by Acts 2009, 81st Leg., R.S., Ch. 291 (H.B. 107), Sec. 1, eff. September 1, 2009.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 665 (S.B. [1522](#)), Sec. 1, eff.
September 1, 2011.