

Judicial Notice NOTICE FOR PRESIDING JUDGE TO TAKE JUDICIAL NOTICE

Cause No(s). \_\_\_\_\_

The State of Texas                      §        IN THE \_\_\_\_\_ COURT

§

VS.    §        \_\_\_\_\_  
§

\_\_\_\_\_ §        \_\_\_\_\_ COUNTY, TEXAS

Judicial Notice

Pursuant under 201(d) of the Texas and Federal Rules of Evidence

MANDATORY

Public Law 93-595: A Court shall take Judicial Notice if requested by a party and supplied with the necessary information.

NOTICE FOR PRESIDING JUDGE TO TAKE JUDICIAL NOTICE

I, \_\_\_\_\_, hereby ask the presiding judge of this Honorable Court to take Judicial Notice pursuant to Rule 201(d) of Texas Rules of Evidence, of the following:

Texas Constitution, Article 1, Section 2:

"All political power is inherent in the people, and all free governments are founded on their authority, and instituted for their benefit. The faith of the people of Texas stands pledged to the preservation of a republican form of government, and, subject to this limitation only, they have at all times the inalienable right to alter, reform or abolish their government in such manner as they may think expedient."

Texas Constitution, Article 1, Section 5:

"No person shall be disqualified to give evidence in any of the Courts of this State on account of his religious opinions, or for the want of any religious belief, but all oaths or affirmations shall be administered in the mode most binding upon the conscience, and shall be taken subject to the pains and penalties of perjury."

Texas Constitution, Article 1, Section 6:

"All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences. No man shall be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. No human authority ought, in any case whatever, to control or interfere with the rights of conscience in matters of religion, and no preference shall ever be given by law to any religious society or mode of worship. But it shall be the duty of the Legislature to pass such laws as may be necessary to protect equally every religious denomination in the peaceable enjoyment of its own mode of public worship."

Texas Constitution, Article 1, Section 10:

"In all criminal prosecutions the accused shall have a speedy public trial by an impartial jury. He shall have the right to demand the nature and cause of the accusation against him, and to have a copy thereof. He shall not be compelled to give evidence against himself, and shall have the right of being heard by himself or counsel, or both, shall be confronted by the witnesses against him and shall have compulsory process for obtaining witnesses in his favor, except that when the witness resides out of the State and the offense charged is a violation of any of the anti-trust laws of this State, the defendant and the State shall have the right to produce and have the evidence admitted by deposition, under such rules and laws as the Legislature may hereafter provide; and no person shall be held to answer for a criminal offense, unless on an indictment of a grand jury, except in cases in which the punishment is by fine or imprisonment, otherwise than in the penitentiary, in cases of impeachment, and in cases arising in the army or navy, or in the militia, when in actual service in time of war or public danger." (Amended Nov. 5, 1918.)

Texas Constitution, Article 1, Section 27:

"The citizens shall have the right, in a peaceable manner, to assemble together for their common good; and apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address or remonstrance."

Texas Constitution, Article 1, Section 29:

"To guard against transgressions of the high powers herein delegated, we declare that everything in this "Bill of Rights" is excepted out of the general powers of government, and shall forever remain inviolate, and all laws contrary thereto, or to the following provisions, shall be void."

Texas Constitution, Article 5, Section 12:

"(b) An indictment is a written instrument presented to a court by a grand jury charging a person with the commission of an offense. An information is a written instrument presented to a court by an attorney for the State charging a person with the commission of an offense. The practice and procedures relating to the use of indictments and informations, including their contents, amendment, sufficiency, and requisites, are as provided by law. The presentment of an indictment or information to a court invests the court with jurisdiction of the cause." (Amended Aug. 11, 1891, and Nov. 5, 1985.)

Texas Constitution, Article 5, Section 17:

"Prosecutions may be commenced in said court by information filed by the county attorney, or by affidavit, as may be provided by law. Grand juries empaneled in the District Courts shall inquire into misdemeanors, and all indictments therefore returned into the District Courts shall forthwith be certified to the County Courts or other inferior courts, having jurisdiction to try them for trial; and if such indictment be quashed in the County, or other inferior court, the person charged, shall not be discharged if there is probable cause of guilt, but may be held by such court or magistrate to answer an information or affidavit."

TCCrP - Art. 2.05. [29] [35] [36] When complaint is made

If the offense be a misdemeanor, the attorney shall forthwith prepare an information based upon such complaint and file the same in the court having jurisdiction; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed

in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county.

#### TCCrP - Art. 15.04. [221] [268] [256] Complaint

The affidavit made before the magistrate or district or county attorney is called a "complaint" if it charges the commission of an offense.

#### TCCrP - Art. 15.17. Duties of arresting officer and magistrate

(b) After an accused charged with a misdemeanor punishable by fine only is taken before a magistrate under Subsection (a) of this article and the magistrate has identified the accused with certainty, the magistrate may release the accused without bond and order the accused to appear at a later date for arraignment in the county court or statutory county court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order. The accused shall receive a copy of the order on release. If an accused fails to appear as required by the order, the judge of the court in which the accused is required to appear shall issue a warrant for the arrest of the accused. If the accused is arrested and brought before the judge, the judge may admit the accused to bail, and in admitting the accused to bail, the judge should set as the amount of bail an amount double that generally set for the offense for which the accused was arrested. This subsection does not apply to an accused who has previously been convicted of a felony or a misdemeanor other than a misdemeanor punishable by fine only.

#### TCCrP - Art. 21.20. [413] [477] [465] "Information"

An "information" is a written statement filed and presented in behalf of the State by the district or county attorney, charging the defendant with an offense which may by law be so prosecuted.

#### TCCrP - Art. 21.21. [414] [478] [466] Requisites of an information

An information is sufficient if it has the following requisites:

1. It shall commence, "In the name and by authority of the State of Texas";
2. That it appear to have been presented in a court having jurisdiction of the offense set forth;
3. That it appear to have been presented by the proper officer;

4. That it contain the name of the accused, or state that his name is unknown and give a reasonably accurate description of him;

5. It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the court where the information is filed;

6. That the time mentioned be some date anterior to the filing of the information, and that the offense does not appear to be barred by limitation;

7. That the offense be set forth in plain and intelligible words;

8. That it conclude, "Against the peace and dignity of the State"; and

9. It must be signed by the district or county attorney, officially.

#### TCCrP - Art. 21.22. [415] [479] [467] Information based upon complaint

No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed with the information. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.

#### TCCrP - Art. 21.23. [416] [480] [468] Rules as to indictment apply to information

The rules with respect to allegations in an indictment and the certainty required apply also to an information.

#### TCCrP - Art. 22.13. [436] [500] [488] Causes which will exonerate

The following causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken:

4. Failure to present an indictment or information at the first term of the court which may be held after the principal has been admitted to bail, in case where the party was bound over before indictment or information, and the prosecution has not been continued by order of the court.

#### TCCrP - Art. 27.01. [504] [568] [557] Indictment or information

The primary pleading in a criminal action on the part of the State is the indictment or information.

TCCrP - Art. 27.02. [505] [569] [558] 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;

TCCrP - Art. 27.03. [506] [570] [559] 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;

TCCrP - Art. 27.17. [521] [585] [574] 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.

TCCrP - Art. 35.16. [616] [692] [673] Reasons for challenge for cause

(a) A challenge for cause is an objection made to a particular juror, alleging some fact which renders him incapable or unfit to serve on the jury. A challenge for cause may be made by either the state or the defense for any one of the following reasons:

4. That he is insane;

9. That he has a bias or prejudice in favor of or against the defendant;

TCCrP - Art. 43.03. [787] [871] [849] Payment of fine

(b) A term of confinement for default in payment of fine or costs or both may not exceed the maximum term of confinement authorized for the offense for which the defendant was sentenced to pay the fine or costs or both. If a court orders a term of confinement for default in payment of fines or costs under this article at a time during which a defendant is serving another term of confinement for default or is

serving a term of confinement for conviction of an offense, the term of confinement for default runs concurrently with the other term of confinement, unless the court orders the terms to run consecutively under Article 42.08 of this code.

#### TCCrP - Art. 45.018. Complaint

(a) For purposes of this chapter, a complaint is a sworn allegation charging the accused with the commission of an offense.

(b) A defendant is entitled to notice of a complaint against the defendant not later than the day before the date of any proceeding in the prosecution of the defendant under the complaint. The defendant may waive the right to notice granted by this subsection.

#### TCCrP - Art. 45.019. [883] [973] [938] Requisites Of Complaint

(a) A complaint is sufficient, without regard to its form, if it substantially satisfies the following requisites:

(1) it must be in writing;

(2) it must commence "In the name and by the authority of the State of Texas";

(3) it must state the name of the accused, if known, or if unknown, must include a reasonably definite description of the accused;

(4) it must show that the accused has committed an offense against the law of this state, or state that the affiant has good reason to believe and does believe that the accused has committed an offense against the law of this state;

(5) it must state the date the offense was committed as definitely as the affiant is able to provide;

(6) it must bear the signature or mark of the affiant; and

(7) it must conclude with the words "Against the peace and dignity of the State" and, if the offense charged is an offense only under a municipal ordinance, it may also conclude with the words "Contrary to the said ordinance".

(b) A complaint filed in justice court must allege that the offense was committed in the county in which the complaint is made.

(c) A complaint filed in municipal court must allege that the offense was committed in the territorial limits of the municipality in which the complaint is made.

(d) A complaint may be sworn to before any officer authorized to administer oaths.

(e) A complaint in municipal court may be sworn to before:

- (1) the municipal judge;
- (2) the clerk of the court or a deputy clerk;
- (3) the city secretary; or
- (4) the city attorney or a deputy city attorney.

(f) If the defendant does not object to a defect, error, or irregularity of form or substance in a charging instrument before the date on which the trial on the merits commences, the defendant waives and forfeits the right to object to the defect, error, or irregularity. Nothing in this article prohibits a trial court from requiring that an objection to a charging instrument be made at an earlier time.

#### TCCrP - Art. 45.023. [898] [990] [995] Defendant's Plea

After the jury is impaneled, or after the defendant has waived trial by jury, the defendant may:

- (1) plead guilty or not guilty;
- (2) enter a plea of nolo contendere; or
- (3) enter the special plea of double jeopardy as described by Article 27.05.

#### TPC - Sec. 12.03. Classification of Misdemeanors

(a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

- (1) Class A misdemeanors;
- (2) Class B misdemeanors;
- (3) Class C misdemeanors.

(b) An offense designated a misdemeanor in this code without specification as to punishment or category is a Class C misdemeanor.

(c) Conviction of a Class C misdemeanor does not impose any legal disability or disadvantage.

#### TGC - Sec. 30.00006. Judge



(e) The municipal judge shall take judicial notice of state law and the ordinances and corporate limits of the municipality.

Prayerfully Submitted,

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#### CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the forgoing has been delivered to the following party or counsel of record via delivery confirmation, hand delivery or fax on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

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## INSTRUCTIONS

This document is used to get the judge to recognize the Texas Constitution. It is used best by stapling on the back, the judges Oath of Office. This is supposed to turn the administrative court into a judicial court where the constitution means something. The argument is: if you have the right to assemble (Sec.27) then you have a right to get there by the common means available. (Right to Travel) If you have the right to worship, you have a right to get to the church (Sec. 6) by whatever the common means available. The government is for the benefit of the people (Sec. 2), not to make laws against the peoples rights. (Sec. 29) The judge took an Oath to go by the Texas Constitution (Sec. 5). People have the right to know the nature and cause that they are accused of (Sec. 10). The courts do not have jurisdiction until the information is filed in court (Art.5, Sec. 12(b)). This document needs to be filed at least 10 days before the pretrial with the judge's Oath of Office stapled on the back, without the instructions.

Original is filed with the court clerk, copy served on the prosecutor, a copy for you.

Line 1: Where you put the cause numbers of the case.

Line 2: Put either 'Municipal', 'Justice of the Peace' or County.

Line 3: Put either 'In the City of (whatever City)', "Precinct (whatever number)" or "(whatever county Court it is – like – At Law #11)

Line 4: Put your name in Upper and Lower Caps.

Line 5: Put whatever county the court is in – like – "Galveston".

Line 6: Put your name in Upper and Lower Caps.

Line 7: Sign your name, print your name in Upper and Lower Caps then below that print your address.

Line 8: Put the numbered day of the Month that you serve a copy of this document to the prosecutor.

Line 9: Put the name of the Month that you serve a copy of this document to the prosecutor.

Line 10: Put the last number of the year that you serve a copy of this document to the prosecutor. – like - 2013 .

Line 11: Put " Prosecutor for (Whatever Court)

Line 12: Put the street address where the prosecutor will be served.

Line 13: Put the City, State and Zipcode where the Prosecutor will be served.

Line 14: Sign your name, print your name in Upper and Lower Caps then below that print your address.

Original goes to the clerk of the court, one copy to the Prosecutor and one copy for you to keep and have stamped by the clerk. Be sure and NOT include the instruction sheets.