



COURTS AND CRIMINAL JURISDICTION

CHAPTER FOUR. COURTS AND CRIMINAL JURISDICTION

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ART. 4.01. [51] [63] [64] WHAT COURTS HAVE CRIMINAL JURISDICTION

The following courts have jurisdiction in criminal actions:

1. The Court of Criminal Appeals;
2. Courts of appeals;
3. The district courts;
4. The criminal district courts;
5. The magistrates appointed by the judges of the district courts of Bexar County, Dallas County, Tarrant County, or Travis County that give preference to criminal cases and the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County;
6. The county courts;
7. All county courts at law with criminal jurisdiction;
8. County criminal courts;
9. Justice courts;
10. Municipal courts; and
11. The magistrates appointed by the judges of the district courts of Lubbock County.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 801, ch. 291, § 101, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 883, ch. 204, § 2, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 25, § 3, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 79, § 2, eff. May 15, 1989; Acts 1989, 71st Leg., ch. 1068, § 3, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, § 4.03, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 413, § 2, eff. Sept. 1, 1993.

ART. 4.02. [52] EXISTING COURTS CONTINUED

No existing courts shall be abolished by this Code and shall continue with the jurisdiction, organization, terms and powers currently existing unless otherwise provided by law.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.03. [53] [68–86–87] COURTS OF APPEALS

The Courts of Appeals shall have appellate jurisdiction coextensive with the limits of their respective districts in all criminal cases except those in which the death penalty has been assessed. This Article shall not be so construed as to embrace any case which has been appealed from any inferior court to the county court, the county criminal court, or county court at law, in which the fine imposed or affirmed by the county court, the county criminal court or county court at law does not exceed one hundred dollars, unless the sole issue is the constitutionality of the statute or ordinance on which the conviction is based.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 802, ch. 291, § 102, eff. Sept. 1, 1981; Acts 2011, 82nd Leg., ch. 1324 (S.B. 480), § 1, eff. June 17, 2011.

ART. 4.04. [53A] COURT OF CRIMINAL APPEALS

Sec. 1. The Court of Criminal Appeals and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of writs of habeas corpus, and, in criminal law matters, the writs of mandamus, procedendo, prohibition, and certiorari. The court and each judge thereof shall have, and is hereby given, the power and authority to grant and issue and cause the issuance of such other writs as may be necessary to protect its jurisdiction or enforce its judgments.

Sec. 2. The Court of Criminal Appeals shall have, and is hereby given, final appellate and review jurisdiction in criminal cases coextensive with the limits of the state, and its determinations shall be final. The appeal of all cases in which the death penalty has been assessed shall be to the Court of Criminal Appeals. In addition, the Court of Criminal Appeals may, on its own motion, with or without a petition for such discretionary review being filed by one of the parties, review any decision of a court of appeals in a criminal case. Discretionary review by the Court of Criminal Appeals is not a matter of right, but of sound judicial discretion.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1971, 62nd Leg., p. 2536, §6, eff. Aug. 30, 1971; Acts 1981, 67th Leg., p. 802, ch. 291, § 103, eff. Sept. 1, 1981.

ART. 4.05. [54] [88] [87] JURISDICTION OF DISTRICT COURTS

District courts and criminal district courts shall have original jurisdiction in criminal cases of the grade of felony, of all misdemeanors involving official misconduct, and of misdemeanor cases transferred to the district court under Article 4.17 of this code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1983, 68th Leg., p. 1585, ch. 303, § 5, eff. Jan. 1, 1984.

ART. 4.06. [55] [89] [88] WHEN FELONY INCLUDES MISDEMEANOR

Upon the trial of a felony case, the court shall hear and determine the case as to any grade of offense included in the indictment, whether the proof shows a felony or a misdemeanor.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.07. [56] [98] [91] JURISDICTION OF COUNTY COURTS

The county courts shall have original jurisdiction of all misdemeanors of which exclusive original jurisdiction is not given to the justice court, and when the fine to be imposed shall exceed five hundred dollars.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1991, 72nd Leg., ch. 108, § 3, eff. Sept. 1, 1991.

ART. 4.08. [57] [101–897] APPELLATE JURISDICTION OF COUNTY COURTS

The county courts shall have appellate jurisdiction in criminal cases of which justice courts and other inferior courts have original jurisdiction.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.09. [58] [105] [95] APPEALS FROM INFERIOR COURT

If the jurisdiction of any county court has been transferred to the district court or to a county court at law, then an appeal from a justice or other inferior court will lie to the court to which such appellate jurisdiction has been transferred.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.10. [59] [99] [92] TO FORFEIT BAIL BONDS

County courts and county courts at law shall have jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which said courts have jurisdiction.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.11. [60] [106] [96] JURISDICTION OF JUSTICE COURTS

(a) Justices of the peace shall have original jurisdiction in criminal cases:

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- (1) punishable by fine only or punishable by:
 - (A) a fine; and
 - (B) as authorized by statute, a sanction not consisting of confinement or imprisonment; or
- (2) arising under Chapter 106, Alcoholic Beverage Code, that do not include confinement as an authorized sanction.
- (b) The fact that a conviction in a justice court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the justice court.
- (c) A justice court has concurrent jurisdiction with a municipal court in criminal cases that arise in the municipality's extraterritorial jurisdiction and that arise under an ordinance of the municipality applicable to the extraterritorial jurisdiction under Section 216.902, Local Government Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1991, 72nd Leg., ch. 108, § 4, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 449, § 1, eff. Sept. 1, 1995; 1997, 75th Leg., ch. 533, § 1, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, § 38, eff. Sept. 1, 1997; Acts 2007, 80th Leg., ch. 612, § 13, eff. Sept. 1, 2007.

ART. 4.12. [60A] MISDEMEANOR CASES; PRECINCT IN WHICH DEFENDANT TO BE TRIED IN JUSTICE COURT

- (a) Except as otherwise provided by this article, a misdemeanor case to be tried in justice court shall be tried:
 - (1) in the precinct in which the offense was committed;
 - (2) in the precinct in which the defendant or any of the defendants reside;
 - (3) with the written consent of the state and each defendant or the defendant's attorney, in any other precinct within the county; or
 - (4) if the offense was committed in a county with a population of 3.3 million or more, in any precinct in the county that is adjacent to the precinct in which the offense was committed.
- (b) In any misdemeanor case in which the offense was committed in a precinct where there is no qualified justice court, then trial shall be held:
 - (1) in the next adjacent precinct in the same county which has a duly qualified justice court; or
 - (2) in the precinct in which the defendant may reside.
- (c) In any misdemeanor case in which each justice of the peace in the precinct where the offense was committed is disqualified for any reason, such case may be tried in the next adjoining precinct in the same county having a duly qualified justice of the peace.
- (d) A defendant who is taken before a magistrate in accordance with Article 15.18 may waive trial by jury and enter a written plea of guilty or nolo contendere.
- (e) The justices of the peace in each county shall, by majority vote, adopt local rules of administration regarding the transfer of a pending misdemeanor case from one precinct to a different precinct.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1999, 76th Leg., ch. 1545, § 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 145, § 1, eff. Sept. 1, 2001; Acts 2011, 82nd Leg., ch. 1086 (S.B. 1200), § 1, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., 1st C.S., ch. 3 (H.B. 79), § 5.05, eff. Jan. 1, 2012.

ART. 4.13. [61] [107] [97] JUSTICE MAY FORFEIT BOND

A justice of the peace shall have the power to take forfeitures of all bonds given for the appearance of any party at his court, regardless of the amount.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.14. [62] [108] [98] JURISDICTION OF MUNICIPAL COURT

- (a) A municipal court, including a municipal court of record, shall have exclusive original jurisdiction within the territorial limits of the municipality in all criminal cases that:
 - (1) arise under the ordinances of the municipality; and
 - (2) are punishable by a fine not to exceed:

- (A) \$2,000 in all cases arising under municipal ordinances that govern fire safety, zoning, or public health and sanitation, other than the dumping of refuse;

- (B) \$4,000 in cases arising under municipal ordinances that govern the dumping of refuse; or

- (C) \$500 in all other cases arising under a municipal ordinance.

- (b) The municipal court shall have concurrent jurisdiction with the justice court of a precinct in which the municipality is located in all criminal cases arising under state law that:

- (1) arise within the territorial limits of the municipality and are punishable by fine only, as defined in Subsection (c) of this article; or

- (2) arise under Chapter 106, Alcoholic Beverage Code, and do not include confinement as an authorized sanction.

- (c) In this article, an offense which is punishable by "fine only" is defined as an offense that is punishable by fine and such sanctions, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

- (d) The fact that a conviction in a municipal court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the municipal court.

- (e) The municipal court has jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.

- (f) A municipality with a population of 1.19 million or more and another municipality contiguous to that municipality may enter into an agreement providing concurrent jurisdiction for the municipal courts of either jurisdiction for all criminal cases arising from offenses under state law that are:

- (1) committed on the boundary of those municipalities or in one or both of the following areas:

- (A) within 200 yards of that boundary; or

- (B) within 2.25 miles of that boundary on a segment of highway in the state highway system that traverses a major water supply reservoir; and

- (2) punishable by fine only.

- (g) A municipality may enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the municipality seeking to enter into the agreement to establish concurrent jurisdiction of the municipal courts in the municipalities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the municipality in which the case arose, for:

- (1) all cases in which either municipality has jurisdiction under Subsection (a); and

- (2) cases that arise under Section 821.022, Health and Safety Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966. Amended by Acts 1983, 68th Leg., p. 3840, ch. 601, § 3, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 329, § 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 641, § 2, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 680, § 1, eff. Sept. 1, 1987; Acts 1995, 74th Leg., ch. 449, § 3, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 533, § 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1013, § 39, eff. Sept. 1, 1997; Acts 2009, 81st Leg., ch. 230, § 1, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 76 (H.B. 984), § 2, eff. May 19, 2011; Acts 2015, 84th Leg., ch. 680 (H.B. 274), § 3, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 935 (H.B. 2398), § 1, eff. Sept. 1, 2015; Acts 2015, 84th Leg., ch. 1154 (S.B. 631), § 1, eff. June 19, 2015; Acts 2017, 85th Leg., ch. 1004 (H.B. 1264), § 1, eff. Sept. 1, 2017.

ART. 4.15. [63] [109] [99] MAY SIT AT ANY TIME

Justice courts and corporation courts may sit at any time to try criminal cases over which they have jurisdiction. Any case in which a fine may be assessed shall be tried in accordance with the rules of evidence and this Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.16. [64] [63] CONCURRENT JURISDICTION

When two or more courts have concurrent jurisdiction of any criminal offense, the court in which an indictment or a com-

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plaint shall first be filed shall retain jurisdiction except as provided in Article 4.12.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722, eff. Jan. 1, 1966.

ART. 4.17. TRANSFER OF CERTAIN MISDEMEANORS

On a plea of not guilty to a misdemeanor offense punishable by confinement in jail, entered in a county court of a judge who is not a licensed attorney, on the motion of the state or the defendant, the judge may transfer the case to a district court having jurisdiction in the county or to a county court at law in the county presided over by a judge who is a licensed attorney.

The judge may make the transfer on his own motion. The attorney representing the state in the case in county court shall continue the prosecution in the court to which the case is transferred. Provided, in no case may any such case be transferred to a district court except with the written consent of the judge of the district court to which the transfer is sought.

Added by Acts 1983, 68th Leg., p. 1586, ch. 303, § 6, eff. Jan. 1, 1984. Amended by Acts 1989, 71st Leg., ch. 295, § 1, eff. Sept. 1, 1989.

ART. 4.18. CLAIM OF UNDERAGE

(a) A claim that a district court or criminal district court does not have jurisdiction over a person because jurisdiction is exclusively in the juvenile court and that the juvenile court could not waive jurisdiction under Section 8.07(a), Penal Code, or did not waive jurisdiction under Section 8.07(b), Penal Code, must be made by written motion in bar of prosecution filed with the court in which criminal charges against the person are filed.

(b) The motion must be filed and presented to the presiding judge of the court:

(1) if the defendant enters a plea of guilty or no contest, before the plea;

(2) if the defendant's guilt or punishment is tried or determined by a jury, before selection of the jury begins; or

(3) if the defendant's guilt is tried by the court, before the first witness is sworn.

(c) Unless the motion is not contested, the presiding judge shall promptly conduct a hearing without a jury and rule on the motion. The party making the motion has the burden of establishing by a preponderance of the evidence those facts necessary for the motion to prevail.

(d) A person may not contest the jurisdiction of the court on the ground that the juvenile court has exclusive jurisdiction if:

(1) the person does not file a motion within the time requirements of this article; or

(2) the presiding judge finds under Subsection (c) that a motion made under this article does not prevail.

(e) An appellate court may review a trial court's determination under this article, if otherwise authorized by law, only after conviction in the trial court.

(f) A court that finds that it lacks jurisdiction over a case because exclusive jurisdiction is in the juvenile court shall transfer the case to the juvenile court as provided by Section 51.08, Family Code.

(g) This article does not apply to a claim of a defect or error in a discretionary transfer proceeding in juvenile court. A defendant may appeal a defect or error only as provided by Chapter 56, Family Code.

Added by Acts 1995, 74th Leg., ch. 262, § 80, eff. Jan. 1, 1996.

Amended by Acts 1999, 76th Leg., ch. 1477, §§ 27, 28, eff. Sept. 1, 1999; Acts 2015, 84th Leg., ch. 74 (S.B. 888), § 1, eff. Sept. 1, 2015.

ART. 4.19. TRANSFER OF PERSON CERTIFIED TO STAND TRIAL AS AN ADULT

(a) Notwithstanding the order of a juvenile court to detain a person under the age of 17 who has been certified to stand trial as an adult in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person may order the person to be transferred to an adult facility. A child who is transferred to an adult facility must be detained under conditions meeting the requirements of Section 51.12, Family Code.

(b) On the 17th birthday of a person described by Subsection (a) who is detained in a certified juvenile detention facility under Section 54.02(h), Family Code, the judge of the criminal court having jurisdiction over the person shall order the person to be transferred to an adult facility.

Added by Acts 2011, 82nd Leg., ch. 1078 (S.B. 1209), § 5, eff. Sept. 1, 2011. Amended by Acts 2013, 83rd Leg., ch. 1299 (H.B. 2862), § 1, eff. Sept. 1, 2013.

