

Question

How and when can a party invoke their right to a jury trial?

Answer (Texas)

Short response

A party can invoke their right to a jury trial by making a timely, written request and paying the required jury fee in accordance with procedural rules—typically at least thirty days before the trial date in civil cases, and by not waiving the right in criminal cases. Failure to comply with these requirements or to object when the court proceeds without a jury may result in waiver of the right.

Summary

In Texas, the right to a jury trial is constitutionally protected in both civil and criminal cases, but it is not self-executing in civil matters. To invoke this right in a civil case, a party must file a written request and pay the jury fee within the time limits set by the Texas Rules of Civil Procedure, most commonly at least thirty days before the trial date; in criminal cases, the right is automatic unless expressly and properly waived.

The process for invoking the right to a jury trial is strictly regulated by statute and case law, and courts have discretion to deny a jury trial if the procedural requirements are not met or if granting a late request would disrupt the proceedings or prejudice the opposing party. In both civil and criminal contexts, a party's failure to act affirmatively—such as by not objecting to a bench trial after perfecting the right—can result in waiver, making timely and clear assertion of the right essential.

Background and Relevant Law

Constitutional and Statutory Framework

The right to a jury trial in Texas is enshrined in both the Texas Constitution and the United States Constitution. Article I, Section 15 of the Texas Constitution provides that the right to trial by jury shall remain inviolate, and Article V, Section 10 further specifies that in district courts, either party may have a jury trial upon application and payment of a jury fee, subject to legislative exceptions and procedural rules ([Weng Ong v. Guzman, 05-22-00505-CV \(Tex. App. Apr 26, 2023\)](#); [State v. Credit Bureau of Laredo, Inc., 530 S.W.2d 288 \(Tex. 1975\)](#)).

In criminal cases, the right to a jury trial is guaranteed by the Sixth Amendment to the U.S. Constitution and by the Texas Constitution. The Texas Code of Criminal Procedure further codifies this right, with specific

provisions for waiver in non-capital cases ([Chavez v. State](#); [Hall v. State](#), 39 S.W.3d 316).

Civil Cases: Procedural Requirements

The right to a jury trial in civil cases is not automatic; it must be invoked and perfected by compliance with procedural requirements. The principal authority is Texas Rule of Civil Procedure 216, which provides that no jury trial shall be had unless a written request is filed with the clerk a reasonable time before the trial date, but not less than thirty days in advance, and the jury fee is paid within the same period ([In re R.D.B.](#), 14-23-00409-CV (Tex. App. Jul 02, 2024); [In re Maness](#), 05-21-00465-CV (Tex. App. Nov 19, 2021); [Brosseau v. Ranzau](#), 81 S.W.3d 381 (Tex. App. 2002)).

A request made before the thirty-day deadline is presumed to be reasonable, but this presumption can be rebutted if granting a jury trial would injure the adverse party, disrupt the court's docket, or impede the ordinary handling of the court's business ([Halsell v. Dehoyos](#), 810 S.W.2d 371 (Tex. 1991); [Barkhausen v. Craycom, Inc.](#), 178 S.W.3d 413 (Tex. 2005)). The fee must be paid at the time of the request, and the clerk must promptly note the payment on the docket ([First Bankers Ins. Co. v. Lockwood](#), 417 S.W.2d 738 (Tex. Ct. App. 1967)).

If a party has perfected the right to a jury trial but the court proceeds without a jury, the party must object on the record or affirmatively indicate the intention to stand on the perfected right; failure to do so constitutes waiver ([Fox v. Oak](#); [Green v. W. E. Grace Mfg. Co.](#), 422 S.W.2d 723 (Tex. 1968)).

Criminal Cases: Invocation and Waiver

In criminal cases, the right to a jury trial is absolute unless waived. For non-capital felonies, waiver must be made in person, in writing, in open court, and with the consent of both the court and the state's attorney ([Chavez v. State](#); [Hall v. State](#), 39 S.W.3d 316). In misdemeanor cases, waiver does not require a written statement and may be accomplished orally in open court, typically by announcing ready and entering a plea before the judge ([Samudio v. State](#), 648 S.W.2d 312 (Tex. Crim. App. 1983); [State v. Welch](#), 810 S.W.2d 13 (Tex. App. 1991)).

A defendant's waiver of the right to a jury trial must be voluntary, knowing, and intelligent, and the record must affirmatively show this. If challenged, the state bears the burden of proving the waiver was valid ([Chavez v. State](#)).

Analysis

Civil Cases

How to Invoke the Right

To invoke the right to a jury trial in a Texas civil case, a party must:

1. **File a Written Request:** The party must file a written request for a jury trial with the clerk of the court. This request must be made a reasonable time before the trial date, but in any event, not less than thirty days before the trial is set on the non-jury docket ([In re R.D.B., 14-23-00409-CV \(Tex. App. Jul 02, 2024\)](#); [General Motors Corp. v. Gayle, 951 S.W.2d 469 \(Tex. 1997\)](#)).
2. **Pay the Jury Fee:** The party must pay the required jury fee at the time of the request. The amount is set by statute and must be deposited with the clerk within the same time frame as the request ([Brosseau v. Ranzau, 81 S.W.3d 381 \(Tex. App. 2002\)](#); [Cardenas v. Montfort, Inc., 894 S.W.2d 406 \(Tex. App. 1994\)](#)).
3. **Presumption of Timeliness:** If the request and fee are submitted more than thirty days before trial, they are presumed timely. However, the opposing party may rebut this presumption by showing that granting a jury trial would cause injury, disrupt the docket, or impede the court's business ([Halsell v. Dehoyos, 810 S.W.2d 371 \(Tex. 1991\)](#)).
4. **Object if Necessary:** If the court proceeds to trial without a jury after the right has been perfected, the party must object on the record or otherwise affirmatively indicate the intention to stand on the right. Failure to do so waives the right ([Fox v. Oak; Green v. W. E. Grace Mfg. Co., 422 S.W.2d 723 \(Tex. 1968\)](#)).

When to Invoke the Right

The request and fee must be submitted at least thirty days before the trial date. Requests made after this deadline are untimely, and the court has discretion to deny them. However, courts may grant untimely requests if doing so does not interfere with the court's schedule, delay the trial, or prejudice the opposing party ([Barkhausen v. Craycom, Inc., 178 S.W.3d 413 \(Tex. 2005\)](#); [Monroe v. Alternatives in Motion, 234 S.W.3d 56 \(Tex. App. 2007\)](#)).

If a party receives late notice of a trial setting, making it impossible to comply with the thirty-day requirement, the court may consider this in determining whether to grant a jury trial ([\\$2,424.21 in U.S. Currency v. State, No. 02-18-00303-CV \(Tex. App. Jul 18, 2019\)](#)).

Special Contexts

- **Partition Suits:** In partition actions, a party dissatisfied with the commissioners' report may file objections within thirty days of the report's filing and demand a jury trial on those objections ([Redden v. Hickey](#), 308 S.W.2d 225 (Tex. App. 1957); [Sand Point Ranch, Ltd. v. Smith](#), 363 S.W.3d 268 (Tex. App. 2012)).
- **Family Law:** The same procedural requirements apply, and requests should be made well in advance of the trial date (*Hector L. Rodriguez v. Rodriguez*).

Criminal Cases

How to Invoke the Right

In criminal cases, the right to a jury trial is automatic unless waived. The default is that the case will be tried to a jury unless the defendant waives this right in accordance with statutory requirements ([Chavez v. State](#); Pretrial Motions).

Waiver of the Right

- **Felony Cases (Non-Capital):** Waiver must be made in person, in writing, in open court, and with the consent of both the court and the state's attorney ([Chavez v. State](#); [Hall v. State](#), 39 S.W.3d 316).
- **Misdemeanor Cases:** Waiver does not require a written statement and may be accomplished orally in open court, typically by announcing ready and entering a plea before the judge ([Samudio v. State](#), 648 S.W.2d 312 (Tex. Crim. App. 1983); [State v. Welch](#), 810 S.W.2d 13 (Tex. App. 1991)).

A waiver must be voluntary, knowing, and intelligent, and the record must affirmatively show this. If the voluntariness of the waiver is challenged, the state must prove its validity ([Chavez v. State](#)).

When to Invoke or Waive

The right is invoked by default unless the defendant waives it at the time of entering a plea. In capital felony cases where the state seeks the death penalty, the right cannot be waived ([Chavez v. State](#); Trial motions).

Consequences of Non-Appearance

If a party fails to appear at trial, as in parental rights termination cases, the court may proceed with a bench trial, and the right to a jury trial may be deemed waived by absence, especially if counsel does not object ([In re D.L.](#)).

Exceptions and Caveats

- **Untimely Requests:** Courts have discretion to grant untimely jury demands if doing so does not disrupt the docket, delay the trial, or prejudice the opposing party ([Barkhausen v. Craycom, Inc., 178 S.W.3d 413 \(Tex. 2005\)](#)).
- **Waiver by Inaction:** Even after perfecting the right, a party may waive it by failing to object when the court proceeds without a jury ([Fox v. Oak](#)).
- **Criminal Waiver Requirements:** In felony cases, strict compliance with waiver requirements is necessary; in misdemeanor cases, oral waiver is sufficient ([Samudio v. State, 648 S.W.2d 312 \(Tex. Crim. App. 1983\)](#)).
- **Constitutional Limitations:** The right to a jury trial is preserved only for those actions in which it existed at common law at the time the Texas Constitution was adopted ([State v. Credit Bureau of Laredo, Inc., 530 S.W.2d 288 \(Tex. 1975\)](#)).

Conclusion

A party in Texas can invoke their right to a jury trial by timely filing a written request and paying the required fee—at least thirty days before trial in civil cases—and by not waiving the right in criminal cases. Strict compliance with procedural requirements is essential, as failure to act affirmatively or to object when the court proceeds without a jury may result in waiver. In criminal cases, the right is automatic unless properly waived, with more stringent requirements for waiver in felony cases. Courts retain discretion to grant untimely requests if no prejudice or disruption results, but the safest course is always to comply strictly with the rules and to assert the right clearly and promptly.

Legal Authorities

[Samudio v. State, 648 S.W.2d 312 \(Tex. Crim. App. 1983\)](#)

Texas Court of Criminal Appeals

Extract

As the Court of Appeals correctly observed, a defendant in a misdemeanor case has the same right to a trial by jury as a defendant charged with a felony. *Franklin v. State*, 576 S.W.2d 621 (Tex.Cr.App.1978). Under Art. 1.13, V.A.C.C.P., a defendant charged with a felony less than capital may waive his right to jury trial, but the waiver must be made in person by the defendant in writing in open court with the consent of the court and the State. Waiver of jury trial in misdemeanor cases is not governed by statute and does not have to be in writing. *Lamb v. State*, 409 S.W.2d 418 (Tex.Cr.App.1966).

Summary

The passage provides insight into the right to a jury trial in Texas, indicating that both misdemeanor and felony defendants have the right to a jury trial. It also explains the conditions under which a defendant can waive this right, particularly noting the requirements for waiver in felony cases and the lack of statutory requirements for waiver in misdemeanor cases.

[State v. Welch, 810 S.W.2d 13 \(Tex. App. 1991\)](#)

Texas Court of Appeals

Extract

By its terms, article 1.13 applies only to 'a felony less than capital.' That statute does not apply to a misdemeanor case such as this, and a written waiver of jury trials is not required in such cases. *Schultze v. State*, 626 S.W. 2d 89 (Tex.App.--Corpus Christi 1981, pet. ref'd). In this case, both the docket sheet and the court's order recite that appellee waived a jury trial. That oral waiver, coupled with appellee's announcement of ready and plea before the court was sufficient to waive his right to jury trial. See *Lamb v. State*, 409 S.W.2d 418, 420 (Tex.Crim.App.1966).

Summary

In Texas, article 1.13, which requires a written waiver of jury trials, applies only to felonies less than capital. In misdemeanor cases, a written waiver is not necessary. An oral waiver, along with an announcement of readiness and a plea before the court, is sufficient to waive the right to a jury trial. This suggests that the right to a jury trial can be waived orally in misdemeanor cases, and the timing of invoking or waiving this right is linked to the plea and readiness announcement.

[Barkhausen v. Craycom, Inc., 178 S.W.3d 413 \(Tex. 2005\)](#)

Texas Supreme Court

Extract

A request for a jury trial nonetheless must be filed 'a reasonable time before the date set for trial of the cause of the non-jury docket, but not less than thirty days in advance.' TEX.R. CIV. P. 216(a). Even if a party fails to timely pay the jury fee, however, Texas courts have held that a trial court 'should accord the right to jury trial if it can be done without interfering with the court's docket, delaying the trial, or injuring the opposing party.'

Summary

The passage from the *Barkhausen v. Craycom, Inc.* case provides guidance on the procedural requirements for invoking the right to a jury trial in Texas. According to Texas Rule of Civil Procedure 216(a), a request for a jury trial must be filed at least thirty days before the trial date. However, even if the jury fee is not paid on time, the court may still grant a jury trial if it does not disrupt the court's schedule, delay the trial, or prejudice the opposing party. This indicates that while there is a strict timeline, there is also some flexibility based on the circumstances.

[McDaniel v. Yarbrough, 898 S.W.2d 251 \(Tex. 1995\)](#)

Texas Supreme Court

Extract

Denial of the constitutional right to trial by jury constitutes reversible error. See *Heflin v. Wilson*, 297 S.W.2d 864, 866 (Tex.Civ.App.--Beaumont 1956, writ ref'd). Depriving the *McDaniels* of a full jury of twelve members, absent an exception authorized by the constitution or applicable rules, is a denial of the right to jury trial guaranteed by the Texas Constitution. The trial court abused its discretion in dismissing *Seals* as 'disabled from sitting' because it was clear error to apply that provision in the absence of some physical or mental disability.

Summary

The passage highlights the importance of the constitutional right to a jury trial in Texas, emphasizing that any denial of this right constitutes reversible error. It underscores that a full jury of twelve members is required unless an exception is authorized by the constitution or applicable rules. The case specifically addresses the improper dismissal of a juror, which led to a violation of this right. This indicates that a party can invoke their right to a jury trial by ensuring that the jury is properly constituted according to constitutional and procedural rules.

[Medley v. State, 47 S.W.3d 17 \(Tex. App. 2000\)](#)

Texas Court of Appeals

Extract

The Court of Criminal Appeals has held that, even for constitutional claims, generally, a party seeking to change the status quo bears the burden of showing facts entitling him to relief. *Marquez*, 921 S.W.2d at 222. And, a criminal defendant who waives an absolute right and seeks to reclaim that right occupies the status of one seeking to change the status quo. *Id.* at 223

(waiver of jury trial). If the evidence presented by a defendant seeking to reclaim a right previously waived is rebutted by the State, the trial court, or the record, then the trial court does not abuse its discretion in refusing to allow the right to be reclaimed. *Id.*

Summary

In Texas, a party who has previously waived their right to a jury trial and seeks to reclaim it must demonstrate facts entitling them to relief. This is because they are attempting to change the status quo. If the evidence they present is rebutted by the State, the trial court, or the record, the trial court does not abuse its discretion in refusing to allow the right to be reclaimed. This indicates that the right to a jury trial can be invoked or reclaimed if it was previously waived, but the party must meet certain evidentiary requirements.

[\\$2,424.21 in U.S. Currency v. State, No. 02-18-00303-CV \(Tex. App. Jul 18, 2019\)](#)

Texas Court of Appeals

Extract

There are many consequences to the failure to give sufficient notice of a trial setting—the inability to request a jury, the inability to have the matter heard by the trial judge instead of the magistrate, and the inability to secure discovery through the rules of civil procedure. The first of these, the inability to timely request a jury, occurred in *Bell Helicopter*. There, the notice of the trial setting made it impossible for Bell, after receiving notice of the setting, to comply with the time limit for paying a jury fee under Rule 216. *Bell Helicopter Textron*, 863 S.W.2d at 141; see Tex. R. Civ. P. 216. In reversing the trial court's judgment and remanding for new trial, the court noted that Rule 245 was amended in order to harmonize it with Rule 216 and to require notice of a trial setting before the time for demanding a jury.

Summary

In Texas, a party must comply with Rule 216 of the Texas Rules of Civil Procedure to timely request a jury trial. This involves paying a jury fee within a specific time frame after receiving notice of the trial setting. The passage also highlights the importance of receiving sufficient notice of the trial setting to allow a party to comply with this requirement. Rule 245 was amended to ensure that notice of a trial setting is given before the time for demanding a jury, thus harmonizing it with Rule 216.

[Elwell v. Mayfield, No. 10-04-00322-CV \(TX 8/10/2005\), No. 10-04-00322-CV. \(Tex. Aug 10, 2005\)](#)

Texas Supreme Court

Extract

Appellants contend that the dismissal violated their right to jury trial under the Texas Constitution. However, the right to trial by jury found in the Texas Constitution does not apply to frivolous lawsuits. See Black, 82 S.W.3d at 55; Schorp v. Baptist Meml. Health Sys., 5 S.W.3d 727, 737-38 (Tex. App.-San Antonio 1999, no pet.).

Summary

While the Texas Constitution provides a right to a jury trial, this right does not extend to frivolous lawsuits. This suggests that a party can invoke their right to a jury trial in Texas unless the lawsuit is deemed frivolous. The context of the passage is a legal decision by the Texas Supreme Court, which provides authoritative guidance on the application of the Texas Constitution in this regard.

[Halsell v. Dehoyos, 810 S.W.2d 371 \(Tex. 1991\)](#)

Texas Supreme Court

Extract

Under our rules, a request for a jury trial must be filed 'a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance.' Tex.R.Civ.P. 216. A request in advance of the thirty-day deadline is presumed to have been made a reasonable time before trial. See Wittie v. Skees, 786 S.W.2d 464, 466 (Tex.App.--Houston [14th Dist.] 1990, writ denied). The adverse party may rebut that presumption by showing that the granting of a jury trial would operate to injure the adverse party, disrupt the court's docket, or impede the ordinary handling of the court's business. Id.

Summary

The passage provides specific guidance on the timing requirements for requesting a jury trial in Texas. It states that a request must be made at least thirty days before the trial date, and if made within this timeframe, it is presumed reasonable. However, this presumption can be challenged if the opposing party can demonstrate potential harm or disruption.

[State v. Credit Bureau of Laredo, Inc., 530 S.W.2d 288 \(Tex. 1975\)](#)

Texas Supreme Court

Extract

The question presented is whether the Texas Constitution gives a right to trial by jury in this suit for civil penalties brought pursuant to the Texas Deceptive Trade Practices Act... The Texas Constitution contains two separate provisions regarding the right of trial by jury. The first is Article I, Section 15, found in the Bill of Rights of the Constitution; the second is Article V, Section 10, contained in the Judiciary Article... Article I, Section 15, contains a jury provision similar to that found in the United States Constitution and every other state constitution. It states simply that 'the right of trial by jury shall remain inviolate... In our opinion the Bill of Rights Article preserved the right to a trial by jury in a suit for the collection of civil penalties... Sec. 15. The right of trial by jury shall remain inviolate... § 10. Trial by jury Sec. 10. In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature.

Summary

The passage provides insight into the constitutional basis for the right to a jury trial in Texas, specifically under Article I, Section 15, and Article V, Section 10. It explains that the right to a jury trial is preserved for cases where it existed at the time the Constitution was adopted and outlines the procedural requirements for invoking this right, such as making an application in open court and paying a jury fee.

[Green v. W. E. Grace Mfg. Co., 422 S.W.2d 723 \(Tex. 1968\)](#)

Texas Supreme Court

Extract

When one party demands a jury and timely pays the jury fee, is the right to a jury trial thus secured to the adverse party under Texas Rules of Civil Procedure, rule 220? ... 'When any party has paid the fee for a jury trial, he shall not be permitted to withdraw the cause from the jury docket Over the objection of the parties adversely interested. If so permitted, the court in its discretion may by an order permit him to withdraw also his jury fee deposit. * * * (Emphasis added).' ... It is clear then that the inviolate right to a jury trial is regulated by those Rules which specify its availability. In 1947 Rule 220 was changed from requiring Consent of the adverse party to the withdrawal to requiring the interposition of an objection to the removal. The effect of this change is that the non-demanding party is no longer assured a jury trial by virtue of the request and payment by his adversary. The Rule now requires that some affirmative action be taken by all parties to insure themselves a jury trial. Thus, until an objection is registered to the withdrawal of a case from the jury docket, the non-demanding party has no

right to have the case remain on that docket. It is the objection itself that establishes the right.

Summary

Detailed explanation of how a party can invoke their right to a jury trial in Texas. It clarifies that a party must demand a jury trial and pay the jury fee to secure this right. Additionally, if a party wishes to ensure that the case remains on the jury docket, they must object to any withdrawal of the case from the jury docket. This requirement for an objection was established by a change in Rule 220 in 1947, which shifted from requiring consent to requiring an objection for withdrawal.

[General Motors Corp. v. Gayle, 951 S.W.2d 469 \(Tex. 1997\)](#)

Texas Supreme Court

Extract

No jury trial shall be had in any civil suit, unless a written request for a jury trial is filed with the clerk of the court a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance. TEX.R. CIV. P. 216(a). General Motors filed a written request for a jury trial and tendered the \$30.00 fee on January 3, 1996, the date the case was set for trial. General Motors also moved to continue the trial to allow its jury request to become timely. As noted, the trial court denied the motion for continuance, calling the case for nonjury trial on January 5.

Summary

In Texas, a party must file a written request for a jury trial with the court clerk at least thirty days before the trial date. This requirement is outlined in Texas Rule of Civil Procedure 216(a). The passage also illustrates a situation where a party, General Motors, attempted to invoke their right to a jury trial by filing a request and paying the fee on the day of the trial, which was not timely according to the rule. The court denied their motion for a continuance to make the request timely, highlighting the importance of adhering to the thirty-day requirement.

[In re Prudential Ins. Co. of America, 148 S.W.3d 124 \(Tex. 2003\)](#)

Texas Supreme Court

Extract

When the trial court notified the parties that a date for non-jury trial had been set, ICP filed a jury demand and paid the jury fee, as required by Rule 216 of the Texas Rules of Civil Procedure. ... ICP concedes that the right to

trial by jury can be waived by failure to comply with the procedures prescribed by Rule 216. ... Rule 216 states that '[n]o jury trial shall be had in any civil suit, unless' a timely demand is made and jury fee paid. By the rule's express language, those conditions are prerequisites to a jury trial, not guarantees of one. ... Tex.R. Civ. P. 216 ('a. Request. No jury trial shall be had in any civil suit, unless a written request for a jury trial is filed with the clerk of the court a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance. b. Jury Fee. Unless otherwise provided by law, a fee of ten dollars if in the district court and five dollars if in the county court must be deposited with the clerk of the court within the time for making a written request for a jury trial. The clerk shall promptly enter a notation of the payment of such fee upon the court's docket sheet.').

Summary

Procedural requirements under Rule 216 of the Texas Rules of Civil Procedure for invoking the right to a jury trial in Texas. It specifies that a party must file a written request for a jury trial and pay the jury fee at least thirty days before the trial date. These steps are prerequisites for securing a jury trial, and failure to comply with them can result in waiving the right to a jury trial. The passage also clarifies that these procedures are not guarantees of a jury trial but necessary conditions to request one.

[Wooten v. Dallas Hunting & Fishing Club, Inc., 427 S.W.2d 344 \(Tex. Ct. App. 1968\)](#)

Texas Civil Court of Appeals

Extract

Rule 216, Vernon's Texas Rules of Civil Procedure, provides that no jury trial shall be had in any civil suit, unless application be made therefor and unless a fee of five dollars if in the district court, and three dollars if in the county court, be deposited by the applicant with the clerk to the use of the county on or before appearance day or, if thereafter, a reasonable time before the date set for trial of the cause on the nonjury docket, but not less than ten days in advance.

Summary

The passage from the case *Wooten v. Dallas Hunting & Fishing Club, Inc.* provides specific procedural requirements for invoking the right to a jury trial in Texas civil cases. It states that an application for a jury trial must be made, and a fee must be deposited with the clerk. This must be done on or before the appearance day or within a reasonable time before the trial date, but not less than ten days in advance. This rule is applicable to civil cases in Texas courts and is not considered a violation of constitutional rights.

[First Bankers Ins. Co. v. Lockwood, 417 S.W.2d 738 \(Tex. Ct. App. 1967\)](#)

Texas Civil Court of Appeals

Extract

Although Article 1, Section 15 of the Constitution of Texas, Vernon's Ann.St., provides: 'The right of trial by jury shall remain inviolate'; such a right is not absolute in civil cases. It is subject to the compliance with certain procedural rules set out in Rule 216, Texas Rules of Civil Procedure. This rule permits a jury trial if application therefor is made in the proper court and the specified fee 'be deposited by the applicant with the clerk to the use of the county on or before the date set for trial of the cause on the non-jury docket, but not less than ten days in advance. The clerk shall promptly enter a notation of the payment of such fee upon the court's docket sheet.'

Summary

In Texas, the right to a jury trial in civil cases is not absolute and is subject to procedural compliance. Specifically, Rule 216 of the Texas Rules of Civil Procedure requires that a party must apply for a jury trial in the proper court and deposit the specified jury fee with the clerk at least ten days before the trial date set on the non-jury docket. The clerk must then promptly note the payment on the court's docket sheet. This ensures that the demand for a jury trial is timely and properly recorded.

[In re Maness, 05-21-00465-CV \(Tex. App. Nov 19, 2021\)](#)

Texas Court of Appeals

Extract

The Texas Constitution guarantees the right to a trial by jury. Tex. Const. art. I, § 15 ('The right of trial by jury shall remain inviolate.');

id., art. V, § 10 (stating that 'no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature'). ... Under the rules of civil procedure, '[n]o jury trial shall be had in any civil suit, unless a written request for a jury trial is filed with the clerk of the court a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance.' Tex.R.Civ.P. 216.

Summary

Clear explanation of the procedural requirements for invoking the right to a jury trial in Texas. It specifies that a party must demand a jury trial and pay a jury fee, and it outlines the requirement to file a written request for a jury

trial at least thirty days before the trial date. This information is applicable to civil cases in Texas.

[Hardy v. Port City Ford Truck Sales, Inc., 693 S.W.2d 578 \(Tex. App. 1985\)](#)

Texas Court of Appeals

Extract

Therefore, there are two basic requirements in securing a jury trial in a civil case: (1) there must be an application or demand for a jury trial and (2) the correct fee must be paid within the time allowed in Rule 216. Dawson v. Jarvis, 627 S.W.2d 444, 446 (Tex.App.--Houston [1st Dist.] 1981, writ ref'd n.r.e.). We acknowledge the fact that payment of the jury fee more than ten days in advance of trial as required by Rule 216 does not make the payment timely as a matter of law. Texas Oil & Gas Corp. v. Vela, 429 S.W.2d 866, 876-877 (Tex.1968). However, if the fee is paid more than ten days before trial, there is a presumption that it has been paid within a reasonable time.

Summary

Requirements for invoking the right to a jury trial in Texas civil cases. It specifies that a party must make an application or demand for a jury trial and pay the correct fee within the time allowed by Rule 216. The passage also clarifies that paying the fee more than ten days before the trial creates a presumption of timeliness, although it does not automatically make it timely as a matter of law. This information is applicable to all civil cases in Texas, as it is based on the Texas Constitution and procedural rules.

[Olson v. Texas Commerce Bank, 715 S.W.2d 764 \(Tex. App. 1986\)](#)

Texas Court of Appeals

Extract

The right to a jury trial is guaranteed by the Texas Constitution, which provides: The right of trial by jury shall remain inviolate.... Tex. Const. art. I, sec. 15. For civil cases, the constitution sets certain conditions on the right: In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury; but no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature. Tex. Const. art. V, sec. 10 (emphasis supplied). Finally, rule 216 of the Texas Rules of Civil Procedure states specific procedural requirements for a party desiring a jury trial: No jury trial shall be had in any civil suit, unless application be made therefor and unless a fee ... be deposited by the applicant with the clerk ... on or before appearance day or, if thereafter, a

reasonable time before the date set for trial of the cause on the nonjury docket, but not less than ten days in advance.... Tex.R.Civ.P. 216 (emphasis supplied).

Summary

Detailed explanation of the constitutional and procedural requirements for invoking the right to a jury trial in Texas. It highlights the constitutional guarantee of the right to a jury trial and specifies the conditions under which this right can be exercised, including the requirement to demand a jury and pay a jury fee. Rule 216 of the Texas Rules of Civil Procedure further clarifies the timing for making such a demand, emphasizing that it must be done at least ten days before the trial date.

[Weng Ong v. Guzman, 05-22-00505-CV \(Tex. App. Apr 26, 2023\)](#)

Texas Court of Appeals

Extract

The right to a jury trial is guaranteed by the Texas Constitution. Tex. Const. art. I, § 15 ('The right of trial by jury shall remain inviolate.'), art. V, § 10 ('In the trial of all causes in the District Courts, the plaintiff or defendant shall, upon application made in open court, have the right of trial by jury.'). Nonetheless, the right to a jury trial in a civil case is not self-executing. See *Vardilos v. Vardilos*, 219 S.W.3d 920, 923 (Tex. App.-Dallas 2007, no pet). To invoke and perfect the right to a jury trial in a civil case, a party must first comply with the requirements of rule 216. *Id.*

Summary

While the right to a jury trial is constitutionally guaranteed in Texas, it is not automatic in civil cases. A party must actively invoke this right by complying with specific procedural requirements, specifically those outlined in Rule 216 of the Texas Rules of Civil Procedure. This suggests that a party must make a formal request and pay a jury fee within a specified timeframe to perfect their right to a jury trial.

[Turk v. First Nat. Bank of West University Place, 802 S.W.2d 264 \(Tex. App. 1990\)](#)

Texas Court of Appeals

Extract

Rule 216 of the Texas Rules of Civil Procedure states specific procedural requirements: No jury trial shall be had in any civil suit, unless a written request for a jury trial is filed with the clerk of the court a reasonable time

before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance. TEX.R.CIV.P. 216(1). By the terms of rule 216, a party does not have a right to a jury if the party makes the request after the case is certified for trial and less than 30 days before trial.

Summary

Clear procedural requirement for invoking the right to a jury trial in Texas civil cases. According to Rule 216, a party must file a written request for a jury trial with the court clerk at least 30 days before the trial date. This rule is generally applicable to all civil cases in Texas, ensuring that parties have a clear timeline to follow if they wish to exercise their right to a jury trial.

[In re R.D.B., 14-23-00409-CV \(Tex. App. Jul 02, 2024\)](#)

Texas Court of Appeals

Extract

In civil cases, the right to a jury trial is not automatic and arises only when a party has demanded a jury trial and paid the applicable fee. In re J.N.F., 116 S.W.3d 426, 431 (Tex. App.-Houston [14th Dist.] 2003, no pet.). Under Texas Rule of Civil Procedure 216, a party is entitled to a jury trial if a written request is made within a reasonable time before the first trial setting on the non-jury docket, but in no event less than thirty days before such setting. Tex.R.Civ.P. 216(a). The conditions set forth in rule 216 are prerequisites to a jury trial, not guarantees of one. In re Prudential Ins. Co. of Am., 148 S.W. 3d 124, 130 (Tex. 2004) (orig. proceeding). A jury request in advance of the thirty-day deadline is presumed to have been made a reasonable time before trial. Halsell v. Dehoyos, 810 S.W.2d 371, 371 (Tex. 1991) (per curiam); DePriest v. DePriest, No. 14-20-00032-CV, 2022 WL 2205281, at *1 (Tex. App.-Houston [14th Dist.] June 21, 2022, no pet.) (mem. op.); Jetall, 2021 WL 1420950, at *3.

Summary

In Texas, the right to a jury trial in civil cases is not automatic. A party must demand a jury trial and pay the applicable fee. According to Texas Rule of Civil Procedure 216, a written request for a jury trial must be made within a reasonable time before the first trial setting on the non-jury docket, and it must be at least thirty days before such setting. If a jury request is made before the thirty-day deadline, it is presumed to be timely. However, this presumption can be rebutted if granting a jury trial would injure the adverse party, disrupt the court's docket, or impede the ordinary handling of the court's business.

[Cardenas v. Montfort, Inc., 894 S.W.2d 406 \(Tex. App. 1994\)](#)

Texas Court of Appeals

Extract

The right to a jury trial is preserved by the Texas Constitution: 'The right to trial by jury shall remain inviolate.' TEX. CONST. ART. I § 15. In all 'District Courts, the plaintiff ... shall, upon application made in open court, have the right to trial by jury....' TEX. CONST. ART. V § 10. The Texas Rules of Civil Procedure impose certain regulations on the right to trial by jury. TRCP 216 provides that: No jury trial shall be had in any civil suit, unless a written request for a jury trial is filed with the clerk of the court a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance. ... [A] fee of ... five dollars ... in the county court must be deposited with the clerk of the court within the time for making a written request for a jury trial. TEX.R.CIV.P. 216.

Summary

The passage provides specific procedural requirements for invoking the right to a jury trial in Texas. It states that a written request must be filed with the court clerk at least thirty days before the trial date, and a fee must be paid. This is a general requirement applicable to civil cases in Texas, as outlined in the Texas Constitution and Texas Rules of Civil Procedure.

[Monroe v. Alternatives in Motion, 234 S.W.3d 56 \(Tex. App. 2007\)](#)

Texas Court of Appeals

Extract

The Texas Constitution guarantees the right to a trial by jury. TEX. CONST. art. I, § 15 ('The right of trial by jury shall remain inviolate.');

TEX. CONST. art. V, § 10 (stating that 'no jury shall be empaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding a jury, for such sum, and with such exceptions as may be prescribed by the Legislature'). ... A request for a jury trial and payment of the jury fee must be made 'a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance.'

TEX.R. CIV. P. 216; Huddle v. Huddle, 696 S.W.2d 895, 895 (Tex.1985) (holding that time limitations for requesting jury trial apply to payment of jury fee as well). ... It is within the discretion of the trial court to deny a jury trial in the absence of a timely request or payment of a jury fee. Huddle, 696 S.W.2d at 895; Martin v. Black, 909 S.W.2d 192, 197 (Tex. App.-Houston [14th Dist.] 1995, writ denied). An untimely jury demand should be granted, however, if it can be done (1) without interfering with the court's docket, (2) delaying the trial, or (3) injuring the opposing party.

Summary

Constitutional guarantee of a jury trial in Texas and specifies the procedural requirements for invoking this right. A party must request a jury trial and pay the jury fee at least thirty days before the trial date. The court has discretion to deny a jury trial if these requirements are not met, but may allow an untimely request if it does not disrupt the court's schedule, delay the trial, or harm the opposing party. This information is applicable to civil cases in Texas, providing a clear guideline for when and how a party can invoke their right to a jury trial.

[Dawson v. Jarvis, 627 S.W.2d 444 \(Tex. App. 1981\)](#)

Texas Court of Appeals

Extract

The right of trial by jury and the manner in which this right may be secured are set forth as follows: Art. 5, § 10, Texas Const.: In the trial of all causes in the District Courts the plaintiff or defendant shall upon application made in open court, have the right of trial by jury. But no jury shall be impaneled in any civil case unless demanded by a party to the case, and a jury fee be paid by the party demanding the jury for such sum and with such exceptions that may be prescribed by the Legislature. Rule 216. T.R.C.P. No jury trial shall be had in any civil suit unless application be made therefor and unless a fee of five dollars if in the district court, and three dollars if in the county court, be deposited by the applicant with the clerk to the use of the county on or before appearance day or, if thereafter, a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than ten days in advance.

Summary

The passage from the Dawson v. Jarvis case provides a clear explanation of the requirements for invoking the right to a jury trial in Texas. It references both the Texas Constitution and the Texas Rules of Civil Procedure, specifically Rule 216, which outlines the necessity of making an application for a jury trial and paying the associated fee within a specified timeframe.

[Brosseau v. Ranzau, 81 S.W.3d 381 \(Tex. App. 2002\)](#)

Texas Court of Appeals

Extract

The right to a jury trial is guaranteed by the Texas Constitution and is one of our fundamental rights. See TEX. CONST. art. I, § 15; TEX. CONST. art. V, § 10. In order to secure the right to a jury trial, the Texas Rules of Civil

Procedure specify that, a litigant must submit a written request for a jury and pay a \$10 jury fee 'not less than thirty days in advance' of the trial date. TEX.R. CIV. P. 216. A request in advance of the thirty day deadline is presumed to have been made a reasonable time before trial.

Summary

Clear guideline on how a party can invoke their right to a jury trial in Texas. It specifies that a written request and a \$10 jury fee must be submitted at least thirty days before the trial date. This requirement is based on the Texas Constitution and the Texas Rules of Civil Procedure, making it generally applicable to civil cases in Texas. The passage also notes that a request made before the thirty-day deadline is presumed reasonable, which is important for ensuring the right is properly invoked.

[Pisharodi v. Columbia Valley Healthcare Sys., L.P., 622 S.W.3d 74 \(Tex. App. 2020\)](#)

Texas Court of Appeals

Extract

The right to a jury trial for attorney's fees, however, is not self-executing; the Texas Rules of Civil Procedure require affirmative action to obtain a jury trial. See *Green v. W.E. Grace Mfg. Co.*, 422 S.W.2d 723, 725-26 (Tex. 1968). A party must demand a jury trial and timely pay the required fee. Tex. Const. art. V, § 10 ; Tex. R. Civ. P. 216. Here, Pisharodi submitted a written request for a jury trial on the issue of reasonable attorney's fees, paid the jury fee, and re-urged his objection to proceeding without a jury trial prior to the hearing on attorney's fees. Pisharodi has, therefore, preserved this issue for review.

Summary

In Texas, the right to a jury trial is not automatic and requires specific actions by the party seeking it. The party must make a formal demand for a jury trial and pay the associated fee in a timely manner. This requirement is grounded in the Texas Constitution and the Texas Rules of Civil Procedure. The case of Pisharodi illustrates that by submitting a written request and paying the fee, a party can preserve their right to a jury trial for review.

[308 S.W.2d 225 Redden v. Hickey](#)

Extract

This court is of the view that the effect of the foregoing rule is to give any party at interest in a partition suit, who is dissatisfied with the report of the commissioners appointed to divide the property, the right to file such

objections and to demand a jury trial on the objections made. It is true that we have not been cited to any Texas case so holding and we have not found any, but we think the clause in the rule '* * * and in such case a trial of the issues thereon shall be had as in other cases * * *' means that the dissatisfied party may submit his objections to the court without the intervention of a jury, or he may demand a jury trial to pass on what he believes to be important factual issues. We think this view is in accord with our procedure and our judicial history.

Summary

This interpretation aligns with Texas procedural and judicial history.

[39 S.W.3d 316 Hall v. State](#)

Extract

Article 1.15 provides that no felony conviction can be had absent a jury verdict, 'unless the defendant, upon entering a plea, has in open court in person waived his right of trial by jury in writing in accordance with Articles 1.13 and 1.14.' Tex. Code Crim. Proc. Ann. art. 1.15 (Vernon Supp. 2001). Article 1.13(a) requires jury waivers in non-capital cases to be 'made in person by the defendant in writing in open court with the consent and approval of the court, and the attorney representing the State.' Id. art 1.13(a) (Vernon Supp. 2001).

Summary

In Texas, a party can invoke their right to a jury trial unless they choose to waive it. The waiver must be made in person, in writing, and in open court, with the consent and approval of both the court and the attorney representing the State. This is applicable to non-capital felony cases.

[564 S.W.3d 441 In re Interest of A.L.M.-F.](#)

Extract

A trial court will not hold a jury trial unless a written request for a jury trial is filed with the clerk of the court 'a reasonable time before the date set for trial of the cause on the non-jury docket, but not less than thirty days in advance.' TEX. R. CIV. P. 216(a). We review a trial court's refusal to grant a jury trial for an abuse of discretion. Mercedes-Benz Credit Corp. v. Rhyne, 925 S.W.2d 664, 666 (Tex. 1996). We examine the entire record and will find that an abuse of discretion exists if the trial court's decision is arbitrary, unreasonable, and without reference to guiding principles. Id.

Summary

The passage provides specific procedural requirements for invoking the right to a jury trial in Texas, stating that a written request must be filed at least thirty days before the trial date. It also discusses the standard of review for a trial court's decision to deny a jury trial, which is an abuse of discretion. This information is applicable to civil cases in Texas and provides a clear guideline on the timing and process for requesting a jury trial.

[936 S.W.2d 59 A.M., In Interest of](#)

Extract

In appellant's first point of error, he contends that the trial court erred in denying him a jury trial where he had properly requested a jury pursuant to TEX.R. CIV. P. 216. On November 6, 1995, appellant filed his request for jury trial and tendered the appropriate fee... By requesting a jury trial and paying the jury fee, appellant perfected his right to a jury trial. TEX.R. CIV. P. 216. However, once perfected, the right to a jury trial in a civil case may still be waived by a party's failure to act... A party is required to act affirmatively in order to preserve the right to complain on appeal that it was denied its right to a trial by jury.

Summary

The passage provides insight into the procedural requirements for invoking the right to a jury trial in Texas. It specifies that a party must request a jury trial and pay the jury fee to perfect this right. However, it also highlights that this right can be waived if the party does not act affirmatively to preserve it, such as by objecting to proceeding without a jury.

[Fox v. Oak](#)

Extract

The right to a jury trial in a civil case in Texas courts is not self-executing and a litigant must take certain steps to invoke and perfect her jury trial right. *Matter of Troy S. Poe Tr.*, 646 S.W.3d 771, 778 (Tex. 2022); see Tex. R. Civ. P. 216 ('Request and Fee for Jury Trial'). 'When a party has perfected [her] right to a jury trial but the trial court instead proceeds to trial without a jury, the party must either object on the record to the trial court's action or indicate affirmatively in the record it intends to stand on its perfected right to a jury trial.' *Arredondo v. Betancourt*, 383 S.W.3d 730, 746 (Tex. App.-Houston [14th Dist.] 2012, no pet.). '[T]he Texas Supreme Court has made it clear if a trial court begins to proceed with a bench trial and a demanding party wishes to stand on its perfected right to jury trial, the demanding party 'must ensure that the court is aware of the demand.' *Murray v. Murray*, No. 04-21-00416-CV, 2023 WL 4095258, at *3 (Tex. App.-San Antonio June

21, 2023, no pet.) (quoting *Browder v. Moree*, 659 S.W.3d 421, 423 (Tex. 2022)). 'Failure to do so constitutes a waiver' of the demanding party's perfected right to a jury trial. See *id.*

Summary

In Texas, the right to a jury trial in civil cases is not automatic. A party must take specific steps to invoke and perfect this right, such as requesting a jury trial and paying the associated fee as per Texas Rule of Civil Procedure 216. If a party has perfected their right to a jury trial, they must object on the record if the trial court proceeds without a jury or affirmatively indicate their intention to stand on their perfected right. Failure to do so results in a waiver of the right to a jury trial.

[Chavez v. State](#)

Extract

A defendant has an absolute right to a jury trial. *Hobbs v. State*, 298 S.W.3d 193, 197 (Tex. Crim. App. 2009); see U.S. Const. amend. VI; Tex. Const. art. I, §15. However, except in a capital felony case in which the State is seeking the death penalty, a defendant may waive the right to a jury trial and, instead, have a bench trial. See *Hobbs*, 298 S.W.3d at 197; Tex. Code Crim. Proc. Ann. art. 1.13(a) (West, Westlaw through 2023 4th C.S.). For a waiver of a defendant's right to a jury trial to be valid, the record must show that it was voluntarily and knowingly made. *Hobbs*, 298 S.W.3d at 203 n.42. When a defendant challenges the voluntariness of his jury-trial waiver, the State must establish through the record that the defendant expressly, knowingly, and intelligently waived his right to a jury trial. *Hobbs*, 298 S.W.3d at 197; *Martinez v. State*, 449 S.W.3d 193, 199 (Tex. App.-Houston [1st Dist.] 2014, pet. ref'd).

Summary

Clear explanation of the right to a jury trial in Texas, including the conditions under which a defendant can waive this right. It specifies that a defendant has an absolute right to a jury trial, but this right can be waived if done voluntarily and knowingly. The passage also outlines the requirement for the State to prove that any waiver of this right was made knowingly and intelligently.

[363 S.W.3d 268 Sand Point Ranch, Ltd. v. Smith](#)

Extract

Rule 771 provides that '[e]ither party to the [partition] suit may file objections to any report of the commissioners ... within thirty days of the

date the report is filed, and in such a case a trial of the issues thereon shall be had as in other cases.' Tex.R. Civ. P. 771 (emphasis added).

Summary

The passage provides insight into the procedural requirements for invoking a right to a jury trial in the context of a partition suit in Texas. According to Rule 771, a party must file objections to the commissioners' report within thirty days of its filing to have a trial on those issues. This indicates that the right to a jury trial is contingent upon timely objections to the report, and the trial will address the issues raised in those objections.

[Hector L. Rodriguez Hector Leal Rodriguez v. Rodriguez](#)

Extract

On January 12, 2016, the trial court entered a docket control order which set the case for trial on April 11, 2016. The order stated that the 'case shall be tried by a jury if there are any issues to which a party has the right to a determination by a jury trial,' but provided that the case would be tried to the bench if 'there are no issues that are required to be submitted to a jury.' ... On February 17, 2016, Hector requested a jury trial.

Summary

A party can request a jury trial in Texas if there are issues in the case that a party has the right to have determined by a jury. The request for a jury trial must be made in a timely manner, as demonstrated by Hector's request on February 17, 2016, for a trial set on April 11, 2016. This suggests that the request should be made well in advance of the trial date.

[Hector L. Rodriguez Hector L. Rodriguez v. Rodriguez](#)

Extract

On January 12, 2016, the trial court entered a docket control order which set the case for trial on April 11, 2016. The order stated that the 'case shall be tried by a jury if there are any issues to which a party has the right to a determination by a jury trial,' but provided that the case would be tried to the bench if 'there are no issues that are required to be submitted to a jury.' ... On February 17, 2016, Hector requested a jury trial.

Summary

A party can request a jury trial if there are issues that require a jury determination. In this case, Hector requested a jury trial on February 17, 2016, for a trial set on April 11, 2016, indicating that the request was made

well in advance of the trial date. This suggests that parties should request a jury trial in a timely manner, typically before the trial date is set, to ensure their right is preserved.

[In re D.L.](#)

Extract

After significant pretrial proceedings, the case was tried in February 2025. The trial was bifurcated, with the case to terminate Father's parental rights tried to the bench and the case to terminate Mother's rights tried to a jury. Neither Mother nor Father was present during any portion of either trial. As discussed below, Mother's counsel orally moved for a continuance of trial, which was denied... The trial court set the case for trial in February 2025. The court conducted a pretrial hearing the week before trial began, which Father did not attend. At the hearing, the Department informed the trial court it wanted to proceed with termination of Father's parental rights under sections 161.002(b)(1) and (3) of the Family Code. See TEX. FAM. CODE § 161.002(b)(1), (3). Father's counsel objected, saying he had met Father "for the first time" at a mediation held the week before and Father had said "he wanted to be in court when we went to trial." Father's counsel also asserted that Father said he "is the father and wants to establish paternity." The trial court announced it would "entertain the termination Monday [the first day of trial] should [Father] not appear for jury trial." When trial began the following week, Father did not appear, and his counsel told the trial court he had not had any contact with Father that day. After hearing argument from the parties about whether the parents' failure to appear waived their right to a jury trial, the trial court announced it would proceed with Mother's case as a jury trial and try Father's case to the bench. Over Father's counsel's objection, the trial court called Father's case for a bench trial.

Summary

The right to a jury trial can be invoked in cases of parental rights termination. However, the failure of a party to appear at the trial can lead to the waiver of the right to a jury trial, as seen in the case of Father, whose case was tried to the bench due to his absence. The trial court has the discretion to decide whether to proceed with a jury trial or a bench trial based on the circumstances, such as the presence or absence of the parties involved.

[Election or Waiver of Jury Trial; Motions Relating to the Jury](#)

Trial Manual for Defense Attorneys in Juvenile Delinquency Cases - American Bar Association - 2014-06-23

Extract

The right to trial by jury may be waived by a respondent. The respondent technically has no right to insist on a bench trial rather than a jury trial... and in most jurisdictions a respondent's waiver of the state-created right to jury trial is conditioned on approval by the prosecutor and the judge... Procedures vary regarding when the respondent is required to make an election between jury trial and bench trial. In some States s/he must demand or waive a jury at arraignment...

Summary

The passage provides insight into the process of waiving or electing a jury trial, indicating that while a respondent can waive their right to a jury trial, this waiver often requires approval from both the prosecutor and the judge. The timing of when a respondent must make this election can vary, with some jurisdictions requiring it at arraignment. This information is relevant to understanding the procedural aspects of invoking or waiving a jury trial in juvenile cases.

[Pretrial Motions](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2020 - James Publishing - Mark G. Daniel, Robert K. Gill - 2020-08-16

Extract

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. He shall have the right of being heard by himself, or counsel, or both; shall be confronted with the witnesses against him, and shall have compulsory process for obtaining witnesses in his favor. No person shall be held to answer for a felony unless on indictment of a grand jury.

Summary

In Texas, the right to a jury trial is guaranteed in all criminal prosecutions. This right is enshrined in both the United States Constitution and the Texas Constitution, as well as the Texas Code of Criminal Procedure. The passage emphasizes the accused's right to a speedy and public trial by an impartial jury, which is a fundamental right in criminal cases. The material is generally applicable to all criminal cases in Texas, ensuring that the accused can invoke their right to a jury trial.

[Trial motions](#)

Texas Criminal Forms - Volume 1-2 - James Publishing - Robert K. Gill, Mark Daniel - 2022-04-02

Extract

The defendant in a criminal prosecution for any offense other than a capital felony case in which the state notifies the court and the defendant that it will seek the death penalty shall have the right, upon entering a plea, to waive the right of trial by jury, conditioned, however, that, except as provided by Article 27.19, the waiver must be made in person by the defendant in writing in open court with the consent and approval of the court, and the attorney representing the state.

Summary

The passage from the Texas Criminal Forms provides information on the waiver of a jury trial, indicating that a defendant has the right to waive a jury trial in most criminal prosecutions, except in capital felony cases where the death penalty is sought. This waiver must be made in person, in writing, and with the consent of the court and the state's attorney. This implies that the right to a jury trial is automatically available unless waived under these conditions.

[Jury Selection and Voir Dire](#)

Texas Criminal Lawyer's Handbook. Volume 1 - 2020 - James Publishing - Mark G. Daniel, Robert K. Gill - 2020-08-16

Extract

In a district court, a defendant can validly waive his right to be tried by twelve jurors and consent to a trial by a lesser number. *Hatch v. State*, 958 S.W.2d 813 (Tex. Crim. App. 1997) (where it was discovered that one of the jurors was not a U.S. citizen); Government Code §62.201. In a county court, a defendant who has executed a valid written jury waiver may be tried by a jury of less than six jurors. *Hanley v. State*, 909 S.W.2d 117 (Tex.App.—Houston [14th Dist.] 1995, no pet.). There is no constitutional or statutory impediment to proceeding with less than six jurors in county court, so long as the defendant waives his right to trial by a complete jury under Article 1.14, and the State and the trial court are willing to consent to do so under Article 1.13(a). *Ex parte Garza*, 337 S.W.3d 903 (Tex. Crim. App. 2011).

Summary

The passage provides information on the waiver of the right to a full jury trial in Texas. It explains that in district courts, a defendant can waive the right to a twelve-member jury, and in county courts, a defendant can waive the right to a six-member jury, provided certain conditions are met. This indicates that the right to a jury trial can be modified or waived under

specific circumstances, which is relevant to understanding how and when a party can invoke or alter their right to a jury trial.

[Shuffle The Deck: The Role The Texas Jury Shuffle Plays In Creating Diverse And Favorable Juries](#)

Extract

At this point just before voir dire, the opposing party may invoke Texas Rule of Civil Procedure 223 or Texas Criminal Procedure Article 35.11 for criminal trials - referred to as the jury shuffle. Ordinarily, if the county follows an interchangeable jury system, the jurors are placed on the general panel randomly and assigned for service from the top down. But if any party demands a shuffle before the voir dire examination, all the names of the jurors assigned to that court are reshuffled in a receptacle and reordered based on the shuffle. It is critical that the shuffle is requested before jurors are sworn or else the request will not be proper. Only one shuffle is allowed per trial in civil trials, while multiple shuffles are allowed in a criminal trial.

Summary

In Texas, a party can invoke their right to a jury shuffle just before the voir dire examination. This is applicable under Texas Rule of Civil Procedure 223 for civil trials and Texas Criminal Procedure Article 35.11 for criminal trials. The request must be made before the jurors are sworn in, and only one shuffle is allowed per civil trial, while multiple shuffles are allowed in criminal trials. This information is generally applicable to trials in Texas.

This memo was compiled by Vincent AI based on vLex materials available as of September 17, 2025. [View full answer on vLex](#)