

INSTRUCTIONS FOR COMPLETING THE FELONY JUDGMENT FORM

Courts must use OCA's forms when entering a felony judgment.¹ Accurate use of the form reduces intake processing times and ensures the court's correctional objectives are met.

TIPS FOR AVOIDING MOST COMMON MISTAKES

- 1) Clearly designate the age range of the victim for aged-based offenses in the name of the offense (*e.g.*, **Aggravated Sexual Assault of a Child < 6 yrs, Aggravated Sexual Assault of a Child < 14 yrs, Injury to a Child ≤ 14 yrs, Injury to an Elderly Individual ≥ 65 yrs**).
- 2) Verify that the **name** of the offense, **statute** of the offense, **degree** of the offense, and length of the **prison sentence** are consistent.
- 3) Clearly designate any "drug free zone" offenses.
- 4) For continuous abuse of a child, the ***last*** date is the official offense date for all calculations.
- 5) For organized criminal activity, the ***first*** date is the official offense date for all calculations.
- 6) If the defendant is required to register as a sex offender, indicate the age of the victim at the time of the offense in the Sex Offender Registration section of the judgment. The age provided in this section is used to determine the defendant's obligations under the Sex Offender Registration Program. It is not used to determine the defendant's eligibility for parole or mandatory supervision.

HEADING OR STYLE OF JUDGMENT:

Cause No.

The number that the court clerk assigns to a case on the court's docket.

¹ Code Crim. Proc. art. 42.01 §4.

Count No.

If the Indictment or Information contains more than one count, enter the count number of the offense.

Change of Venue

If venue was moved from the county of origin, enter the change of venue information in the gray boxes underneath "County, Texas" in the style of the judgment. Click on the first box and select **"On change of venue from."** Click on the second box and enter the name of the county in which the offense occurred.

Incident No. /TRN and State ID No.

TDCJ NEEDS BOTH THE INCIDENT TRACKING NUMBER (TRN) AND THE TRACKING NUMBER SUFFIX (TRS).

The **TRN** is the incident tracking number issued by the DPS and assigned by the county to the defendant during a specific arrest.

The **TRS** is the tracking number suffix added to the TRN to identify each offense and count arising from a single arrest. Often, there is more than one TRS number for an individual TRN. It is important to list all TRS numbers affiliated with a TRN on the Felony Judgment Form and Pen Packet Document Checklist.

The State Identification Number (State ID No.) is a unique number assigned by the Texas Department of Public Safety to every defendant for a lifetime.

Enter the TRN, along with TRS, and State ID No., if these numbers have been assigned at the time of the judgment. The attorney for the State may have access to these numbers.

JUDGE PRESIDING:

"Judge Presiding" refers to the trial judge or any judge assigned to hear the case or to impose sentencing. The visiting, assigned, or elected judge of the court may sign the

judgment, even if the visiting, assigned, or elected judge did not preside over the trial or sentencing hearing.²

DATE SENTENCE IMPOSED and DATE PROCEEDINGS DEFERRED:

“*Date Sentence Imposed*” means the date that the court pronounced the sentence in open court, not the date that the sentence commences.

“*Date Proceedings Deferred*” means the date that the court deferred further proceedings and placed the defendant on deferred adjudication community supervision (hereinafter “deferred adjudication”).

You should enter one or the other, not both.

ATTORNEY FOR STATE:

Enter the name and bar card number of the prosecuting attorney. More likely than not this will be an assistant district attorney, not the elected district attorney, unless he or she actually handled the case. You can find the bar card number by conducting a search of the attorney's name on the State Bar of Texas website at this [link](#).

ATTORNEY FOR DEFENDANT:

Enter the name and bar card number of the defense attorney. If desired, designate whether the defense attorney was *APPOINTED* or *RETAINED* (hired). You can find the bar card number by conducting a search of the attorney's name on the State Bar of Texas website at this [link](#).

OFFENSE FOR WHICH DEFENDANT CONVICTED:

Enter the name of the offense for which the defendant was convicted. The defendant may be convicted of a lesser included offense (LIO) or a different offense from the one charged in the Indictment or Information. If the defendant was convicted of a LIO or different offense,

²*Eubanks v. State*, 11 S.W.3d 279, 281 (Tex. App.—Texarkana 1999, no pet.); “”; *Anuscewski v. State*, No. 03-12-00655-CR, 2013 Tex. App. LEXIS 7621, at 4 (Tex. App.—Austin June 25, 2013, no pet.) (mem. op., not designated for publication) (explaining that the retired judge assigned to the case following trial had the same authority to sign the written judgment as the judge who presided over the trial had).

enter the name of the LIO or different offense, not the offense charged in the Indictment or Information.

Two boxes are provided for this entry. The first box contains a drop down list with the name of different offenses. Select the correct name, if it is on the list. If it is not on the list, click on the second box and type the name of the offense. Enter the name that is provided by the statute for the offense.

CHARGING INSTRUMENT:

“Charging Instrument” means the document used to charge the defendant with an offense. In felony cases, this is the Indictment or Information.

Click on the box provided to select the name of the instrument used to charge the defendant.

STATUTE FOR OFFENSE:

Enter the statute, along with the subsection, for the offense for which the defendant was convicted. Include any statute, along with the subsection, that enhances the punishment range (e.g., Sec. 481.134(b), Health and Safety Code, if the offense occurred in a drug free zone; Sec. 22.021(f), Penal Code, if the victim was of tender age; or Sec. 71.028(c), Penal Code, if the offense was committed as part of the activities of a criminal street gang).

Two boxes are provided for this entry. Enter the section or article in the first box. Click on the second box to select the name of the applicable statute. “Penal Code” is the default setting. Be sure to change this setting if the defendant was charged under a different statute, such as the Transportation Code or Health and Safety Code.

NOTE: Be as specific as possible when entering the statute or statutes for the offense. Don't forget to include any subsection or statute that elevates the punishment range due to a special fact or circumstance of the case. Please remember that a special fact or circumstance does not include the defendant's past criminal history.

EXAMPLES

(Assault) There are three different ways to commit an assault under Section 22.01 of the Penal Code, and depending on the manner, the offense is classified anywhere from a Class C misdemeanor to a second degree felony.³

Defendant is convicted of intentionally causing bodily injury by hitting a person with her fist. The statutory citation is §22.01(a)(1), Penal Code, as this indicates the manner in which the assault occurred.

If the defendant is convicted of intentionally causing bodily injury to her boyfriend by impeding her boyfriend's breathing by covering his mouth and nose with a pillow, the statutory citation changes to Sec. 22.01(b)(2)(B), Penal Code, as this better describes the special status of the victim, a fact that elevates the offense from a Class A misdemeanor to a 3rd degree felony.

(Aggravated Sexual Assault) An aggravated sexual assault is punishable anywhere from 5 to 99 years or life in prison.⁴ However, if the victim is: (1) less than 6 years of age at the time of the offense; or (2) less than 14 years of age at the time of the offense and the offense was committed in the manner specified by the statute, the minimum punishment increases to 25 years and the defendant is no longer eligible for parole.⁵ The enhanced punishment is the result of Jessica's Law which is codified at §21.021(f), Penal Code.

Jessica's Law provisions (i.e., Sec. 21.021(f), Penal Code) must be clearly indicated if applicable.⁶ For instance, if the court orders the defendant to serve a period of imprisonment **without parole**, the judgment should include: (1) the name of the offense, including the age range of the victim, (e.g., Aggravated Sexual Assault of a Child < 6 Yrs); and/or (2) a specific statutory reference to §22.021(f)(1) or (2), Penal Code. The statutory reference provides clear

³ A defendant may commit an assault by intentionally, knowingly, or recklessly: (1) causing bodily injury, (2) threatening to cause bodily injury, or (3) causing an offensive or provocative touching.

⁴ Other mandatory and optional fines may also apply.

⁵ See Penal Code § 22.021(f); Gov't Code § 508.145(a). A defendant convicted of an offense under § 22.021 is ineligible for release to mandatory supervision, as well. See Gov't Code § 508.149(a)(8).

⁶ *Bledsoe v. State*, 479 S.W.3d 491, 497-98 (Tex. App.—Fort Worth 2015, pet. denied) (not designated for publication).

notice to TDCJ that the defendant must serve a mandatory minimum sentence of 25 years in prison and is ineligible for parole.

Defendant is convicted of intentionally using his penis to penetrate the vagina of a child who was less than six years of age at the time of the offense. The complete statutory citation is Sec. 22.021(a)(1)(B)(iii),(a)(2)(B)/(f)(1), Penal Code.

NOTE: With respect to Aggravated Sexual Assault under §22.021, Penal Code, a defendant is ineligible for parole only if he or she is punished under Subsection (f) of that section which carries a mandatory minimum sentence of 25 years. Therefore, regardless of the offense description and statute, if the period of imprisonment is less than 25 years, the defendant will be deemed eligible for parole.

DATE OF OFFENSE:

“Date of Offense” is the date that the offense was committed. However, for offenses with a course of conduct over a period of time (e.g., organized criminal activity, continuous sexual assault of a child), the “Date of Offense” is the first date in a range of dates that the offense was committed **and** the last date that the offense was committed. For offense that occur over a course of time, TDCJ needs both the “beginning date” and “ending date” on the face of the judgment. Failure to provide this information will delay the defendant’s intake processing at TDCJ.

Two boxes are provided for this entry. Enter the date that the offense was committed in the first box. But, for offenses that occurred over a course of time (e.g., organized criminal activity, continuous sexual assault of a child), enter the first date in a range of dates in the first box and the last date in the range of dates in the second box.

PLEA TO OFFENSE:

Enter the defendant’s plea to the offense.

The box for this entry has three options: NOLO CONTENDERE, GUILTY, and NOT GUILTY. Choose one.

DEGREE OF OFFENSE:

Enter the degree of offense convicted, not the offense charged. For instance, if the defendant was charged with a third degree felony but was found guilty of a state jail felony (LIO), you will enter state jail felony for the degree of offense. **DO NOT ENTER THE DEGREE OF ENHANCEMENT. Do not take the enhancement paragraph(s) into consideration.** TDCJ will enhance based on the findings for the enhancement paragraphs. See *Discussion Regarding Degree of Offense* below.

A drop down list containing the class of most offenses is provided for this entry.

An offense designated a misdemeanor without a specific class is considered a Class C misdemeanor for punishment purposes.⁷ An offense designated a felony without a specific class is a state jail felony for punishment purposes.⁸

DISCUSSION REGARDING DEGREE OF OFFENSE

Do not confuse the **Degree of Offense** with the **Degree of Punishment**. Normally, the two are the same. For instance, when a defendant is convicted of a third degree felony, the defendant is punished at the third degree felony level (2 - 10 years in prison and an optional fine up to \$10,000).⁹ However, if the defendant has a criminal history, his or her punishment may be enhanced for sentencing purposes. As a result, the defendant will receive a sentence in the second or first degree felony range, depending on his or her criminal history.

When entering the Degree of Offense, it is important **not to confuse** it with the Degree of Punishment, especially if punishment is enhanced. The Degree of Offense remains the same throughout the case, even if punishment is enhanced by one's criminal history. So, if a defendant is convicted of a third degree felony in the first phase of the case (The Guilt/Innocence phase), the defendant remains convicted of a third degree felony at the end of the second phase of the case (The Punishment phase), even if the defendant is punished at the second degree felony range.

⁷ Penal Code § 12.03(b).

⁸ Penal Code § 12.04(b).

⁹ Other mandatory and optional fines may also apply.

What to Do When the Degree of Punishment Differs From the Degree of Offense?

First, the judgment does not provide an entry for the Degree of Punishment. Please do not create a separate field or enter a special order for it. Instead, focus on entering the pleas and findings for the enhancement paragraphs, as this information is what legally justifies punishment at a higher range.¹⁰ If the judgment does not contain findings on the enhancement paragraphs, the omission will delay intake processing at TDCJ or result in an illegal sentence.

EXAMPLES

(Repeat Offender) Defendant is convicted of Kidnapping, a third degree felony. The State alleged an enhancement paragraph asserting that Defendant was previously convicted of a third degree felony. The court found the enhancement paragraph true and sentenced Defendant to 12 years in TDCJ. The **Degree of Offense** is third degree felony, although punishment is in the range for a second degree felony. The judgment must reflect the court's finding of "**TRUE**" for the enhancement paragraph. If it does not, the judgment contains an illegal sentence, as the 12-year sentence is outside of the range of punishment for a third degree felony.

(Habitual Offender) Defendant is convicted of Burglary, a second degree felony, after breaking into a neighbor's house to steal money. The State alleged two enhancement paragraphs asserting that Defendant was previously convicted of a third degree felony and a second degree felony. The court found the enhancement paragraphs true and sentenced Defendant to 30 years in TDCJ. The **Degree of Offense** is second degree felony. The judgment must reflect the court's findings of "**TRUE**" on the enhancement paragraphs in order to make this a valid sentence.

¹⁰ This assumes that the enhancement paragraphs reflect the defendant's past criminal history, not enhancements due to other factors (i.e., the victim's tender age, the defendant is a member of a street gang, the offense occurred in a drug free zone).
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FINDING OF DEADLY WEAPON:

The judgment must reflect any affirmative finding of a deadly weapon, and if the deadly weapon is a firearm, the judgment must indicate that the deadly weapon was a firearm.

A drop down list with four options is provided for this entry. "N/A" is the default setting. Change the default setting if the court makes an affirmative finding of a deadly weapon. An explanation of the options is provided below.

N/A – the offense did not involve a deadly weapon, or the State did not allege a deadly weapon;

NO – the State alleged a deadly weapon, but the court did not make an affirmative finding of a deadly weapon;

YES, A FIREARM – the State alleged a deadly weapon, the court made an affirmative finding of a deadly weapon, and the deadly weapon is a firearm; or

YES, NOT A FIREARM – the State alleged a deadly weapon, the court made an affirmative finding of a deadly weapon, and the deadly weapon is not a firearm.

NOTE: An affirmative finding of a deadly weapon has a negative impact on the defendant's eligibility for parole or mandatory supervision. If the judgment does not reflect an affirmative finding of a deadly weapon, TDCJ may not be able to determine the defendant's eligibility for parole or mandatory supervision.

TERMS OF PLEA BARGAIN: (a.k.a. PLEA AGREEMENT)

The judgment must contain the terms of any plea bargain accepted by the court.

If the court accepted a plea bargain in the case, summarize the terms of the plea bargain on the judgment form or place an "X" in the box on the judgment that indicates the terms of the plea bargain are attached.

If the terms of the plea bargain do not match the judgment, TDCJ will follow the terms set forth in the judgment.

NOTE: *If the defendant entered a plea without an agreed recommendation, or if the court held a sentencing hearing to determine the appropriate punishment, there was no plea bargain between the parties.*

ENHANCEMENT PARAGRAPHS: *This refers to enhancement paragraphs that reflect the defendant's past criminal history.*

During the sentencing phase of the trial (or plea), the attorney for the state may seek to enhance the range of punishment by alleging the defendant's past criminal history in enhancement paragraphs on the charging instrument or in a written motion. If the court finds that the enhancement paragraphs are true, the range of punishment for the offense will be increased to a higher category of offense or a mandatory minimum prison sentence will apply. The enhancement will depend on the degree of the offense and the number of times the defendant has been previously convicted.¹¹

If the court found any of the enhancement paragraphs true, enter the defendant's plea and the court's finding for each enhancement paragraph alleged. A drop down list with four options is provided for this entry. "N/A" is the default setting. Don't forget to change the default setting if the State alleged an enhancement paragraph. An explanation of the options is provided below.

N/A – the charging instrument or motion does not contain an enhancement paragraph;

ABANDONED – the charging instrument or motion contains an enhancement paragraph, but the State abandoned or did not proceed on it;

PLEADED TRUE or **PLEADED NOT TRUE** – depends on the defendant's plea to the enhancement paragraph; and

FOUND TRUE or **FOUND NOT TRUE** – depends on the court's finding on the enhancement paragraph.

¹¹ See Penal Code §§12.42, 12.425.

NOTE: It is important to enter the findings for the enhancement paragraphs. Failure to do so may result in the judgment containing an illegal sentence or the defendant's early release from prison. TDCJ cannot make assumptions regarding the enhancement paragraphs.

ADJUDICATION OF GUILT DEFERRED; DEFENDANT PLACED ON DEFERRED ADJUDICATION: *(Attach a copy of the conditions of deferred adjudication to the judgment.)*

After a defendant enters a plea of guilty or nolo contendere, the court may defer further proceedings and place the defendant on deferred adjudication.

If the defendant is placed on deferred adjudication, prepare an Order of Deferred Adjudication, not a Judgment of Conviction. Attach a copy of the document setting forth the conditions of deferred adjudication to the Order.

NOTE: The Order of Deferred Adjudication does not provide an entry for the date the sentence commences. Do not add a field for it, even if the court ordered the defendant to serve confinement as a condition of deferred adjudication. Confinements served as a condition of deferred adjudication are recorded on the first page of the Order under the heading titled, "Confinement as a Condition of Deferred Adjudication Community Supervision."

SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION: *(Attach a copy of the conditions of community supervision to the judgment.)*

After the court sentences a defendant to a term of confinement, the court may suspend the sentence of confinement and place the defendant on community supervision.¹²

If the court placed the defendant on community supervision, place an "X" in the box. Enter the period of community supervision in the two gray boxes. Click on the first box to enter a number. Click on the second box to select the appropriate unit of time (i.e., days, months, years). A copy of the document setting forth the conditions of community supervision should be attached to the judgment.

¹² If the jury sentences the defendant to a term of confinement, the court can suspend the sentence and place the defendant on community supervision only if the jury recommends it.

If the court placed the defendant on community supervision after a jury recommended it, complete the Judgment of Conviction by Jury.

PUNISHMENT AND PLACE OF CONFINEMENT:

If the court sentences the defendant to confinement, the judgment must reflect the period and place of confinement.

Three boxes are provided for this entry. Enter a number (length of time) in the first box. Enter the unit of time (i.e., days, months, years) in the second box by clicking on the appropriate unit of time. The third box contains a drop down list with the names of various facilities. Select the name of the appropriate facility. You must specify the place of confinement by entering or selecting Institutional Division or State Jail Division. N/A is the default setting for place of confinement. Don't forget to change this setting if the court ordered the defendant confined.

NOTE: If the court ordered the defendant confined as a condition of community supervision or deferred adjudication, do not enter information regarding punishment and place of confinement here. For cases involving confinement as a condition of community supervision or deferred adjudication, complete the section titled, "Confinement as a Condition of Community Supervision," or "Confinement as a Condition of Deferred Adjudication Community Supervision," respectively. Do not enter jail credit information without also providing a special order that the defendant is entitled to jail time credit on time ordered served as a condition of community supervision or deferred adjudication. Absent a special order, TDCJ will not calculate jail credit for time served as a condition of community supervision or deferred adjudication. Enter the special order on the judgment.

DATE SENTENCE COMMENCES:

"Date Sentence Commences" is the date confinement starts. Complete this entry only if the court orders the sentence executed. A sentence is executed if the defendant is immediately taken into custody to begin serving the sentence or given a certain date and time to report to jail to begin serving the sentence. ***DO NOT ENTER A DATE IF THE COURT***

PLACED THE DEFENDANT ON COMMUNITY SUPERVISION, INCLUDING DEFERRED ADJUDICATION COMMUNITY SUPERVISION.

If the court ordered the sentence executed, enter the date the confinement starts. *If this date differs from the date the sentence is imposed, please provide an explanation for the difference in Special Findings and Orders (e.g., The Defendant is allowed to turn himself in at a later date on Jan. 3, 2025).*

Do not enter a date if the confinement was imposed as a condition of community supervision or deferred adjudication community supervision. Confinement as a condition of community supervision or deferred adjudication begins when the defendant *arrives* at the place of confinement, **absent a special order to the contrary**. A special order is provided in Affirmative Findings and Special Orders document. Enter the special order on the Judgment or Order of Deferred Adjudication.

If you enter a date, you must also complete the section for **Punishment Options**.

THIS SENTENCE SHALL RUN:

A defendant may have multiple convictions resulting in multiple sentences. If this occurs, the judgment is required to reflect whether the defendant's sentences will run consecutively or concurrently. "N/A" is the default setting for this entry. Don't forget to change the entry if the default setting is incorrect.

If the court ordered the sentences to run consecutively, the text field for the entry must set forth the court, the case numbers of the sentences the court ordered to run consecutively, the date(s) judgment entered, and the sentence length for each of the consecutive cases. In order for a sentence to run consecutively, the order of sentences must start with the first judgment entered. A sentence cannot be consecutive to a sentence that was entered after it.

For consecutive sentences, please enter a narrative detailing the order in which the sentences should be stacked. Include the narrative in the judgment for each case involved.

FINES, COURT COSTS, REIMBURSEMENT FEES, and RESTITUTION: (For Judgments Adjudicating Guilt and Judgments Revoking Community Supervision, see **NOTE #2** below.)

A judgment must reflect the fines pronounced by the court, court costs, reimbursement fees, and any restitution ordered by the court. Some fines, court costs¹³, and reimbursement fees are mandated by statute, and unless the court waives or reduces a specifically mandated fine, court cost, or reimbursement fee, the defendant has to pay the amount mandated by statute. Optional fines and reimbursement fees apply if statutory conditions are met, and the court assesses the fine or fee.

If applicable, enter the total amount of fines ***pronounced*** by the court, the total court costs, the total reimbursement fees, and any restitution amount. If the court ***pronounced*** any fines, in addition to entering the total amount of fines, check the appropriate box on page 2 of the judgment form under “**Fines Imposed Include (check each fine and enter each amount as pronounced by the court)**” to indicate what fines were assessed.).

Enter the total amount of court costs and reimbursement fees assessed. These amounts must be itemized in the bill of costs. If the court ordered restitution: (1) designate who should receive the restitution by selecting “Victim” or “Agency/Agent” in the drop down list provided; and (2) enter a *special finding* or attach an Order of Restitution setting forth the amount and frequency of the restitution payments and the name and address of the person designated to receive the payments.

NOTE #1: Article 42.03, Code Crim. Proc., requires the judge to pronounce the sentence (i.e., punishment) in the defendant's presence. ***Therefore, all fines, whether general, special, mandatory or optional, must be pronounced by the judge in the defendant's presence.***¹⁴ ***If the court proceeds in the defendant's absence, the judge must still pronounce the fines. The written judgment should not reflect fines that were not pronounced by the judge.***

NOTE #2: ***If the court enters a Judgment Adjudicating Guilt or a Judgment Revoking Community Supervision, do not assess the fines, court costs, reimbursement fees, and***

¹³ As of January 1, 2020, there are two court costs, that is, the state consolidated court cost (\$185 for district courts) and the local consolidated court cost (\$105 for district courts). All other costs have been reclassified as a fine or reimbursement fee.

¹⁴ There are exceptions to pronouncing the sentence in the defendant's presence; however, unless the court specifically announces its intent to proceed in the defendant's absence, the clerk should not automatically assume an exception applies. When in doubt, ask the judge before the next case is called, if possible.

*restitution a second time. These items are assessed one time in the original Judgment or Order of Deferred Adjudication. This does not preclude the court from assessing costs incurred **after** the original Judgment or Order of Deferred Adjudication was entered. The Judgment Adjudicating Guilt and the Judgment Revoking Community Supervision should reflect amounts due and owing on the date of the revocation or adjudication. If desired, the court may include a special order directing the District Clerk to provide a credit for payments made toward the fines, court costs, restitution fees, and restitution **prior** to the date of the revocation or adjudication. A special order regarding credit for payments made is provided in **Affirmative Findings and Special Orders** for the felony judgment forms.*

***NOTE #3:** A clerk may want to consult with the judge before assessing a fine on a defendant who was placed on deferred adjudication, has not been found guilty, or committed the offense **before** the fine went into effect or was increased.*

SEX OFFENDER REGISTRATION REQUIREMENTS:

Upon conviction or adjudication of certain offenses, a defendant has to register as a sex offender with a local law enforcement agency or the Texas Department of Public Safety. For a list of offenses that require sex offender registration upon conviction or adjudication, see Code Crim. Proc. art. 62.001(5).

If a defendant is required to register as a sex offender, the judgment must contain a statement that the defendant is required to register and a statement of the age of the victim [at the time] of the offense.¹⁵ The age of the victim has an impact on the defendant's duty to register. Therefore, it is important to put on the judgment or order of deferred adjudication the age of the victim at the time of the offense, especially if the victim is a child.

If the defendant is required to register as a sex offender, check the box to indicate so. Next, enter the age of the victim at the time of the offense by typing a number in the first box and selecting the appropriate period of time in the second box.

¹⁵ Code Crim. Proc. art. 42.01 §1(27).

NOTE: For this section, age does not have to be proven beyond a reasonable doubt, but the best practice is to include an affirmative finding as to the age of the victim at the time of the offense, if the victim is less than 17 years of age.

JAIL TIME CREDIT: (DO NOT LIST DATE RANGES)

The defendant is entitled to jail time credit for time spent in jail prior to sentencing.¹⁶ The trial court is required to pronounce jail time credit, if any, at the time of sentencing.¹⁷ The defendant is not entitled to jail time credit for time served as a condition of community supervision or deferred adjudication.¹⁸ The defendant is not entitled to jail time credit for confinement served prior to the date of the offense.

If the court grants jail time credit, enter the total number of days granted. **Do not list the credit by date range. If the form you are using requires date range(s), you are not using the most recent felony judgment form.** Enter a number in the first box and select the appropriate unit of time in the second box (i.e., years, months, days).

TDCJ WILL NOT USE DATE RANGES TO CALCULATE JAIL TIME CREDIT. THE COURT MUST PROVIDE THE TOTAL NUMBER OF DAYS OF JAIL TIME CREDIT GRANTED.

TDCJ WILL NOT INCLUDE IN ITS CALCULATION OF JAIL TIME CREDIT ANY JAIL TIME PRECEDING THE DATE OF THE OFFENSE.

NOTE 1: If the court applies jail time credit toward confinement served as a condition of community supervision or deferred adjudication, the judgment or order may contain an illegal credit.

NOTE 2: If the court grants jail time credit toward the fines, court costs, or reimbursement fees, enter a special order to that effect.

¹⁶ Code Crim. Proc. arts. 42.03 §2(a)(1).

¹⁷ *Ex parte Ybarra*, 149 S.W.3d 147 (Crim. App. 2004).

¹⁸ See Code Crim. Proc. arts. 42.03 §2(a)(1), 42A.755(c); see also *Ex parte Cruthirds*, 712 S.W.2d 749, 752 (Tex. Crim. App. 1986); *Ex Parte Eden*, 583 S.W.2d 632, 634 (Tex. Crim. App. 1979); *Martinez v. State*, 427 S.W.3d 496, 500 (Tex. App. - San Antonio 2014, no pet.).

VICTIM IMPACT STATEMENT:

The victim impact statement is the form used to record the impact of the offense on the victim or the victim's family. Every victim has the right to complete a victim impact statement and have it considered before sentencing, acceptance of a plea bargain, or release on parole. The statement is usually attached to the commitment papers. The law requires the judgment to reflect whether a victim impact statement was returned to the attorney for the state.¹⁹

A question is provided for this entry. **An answer is required**, even if it remains "N/A," which is the default setting and applies only if the offense did not involve a victim. Change "N/A," to "Yes" or "No," if the offense involved a victim. If the victim did not return the victim impact statement, the answer is "NO," not "N/A."

DILIGENT PARTICIPATION CREDIT:

Diligent participation credit is time credit based on a defendant's diligent participation in an educational, vocational, treatment, or work program while confined in a state jail. The credit is awarded at the court's discretion, and it cannot exceed one-fifth of the defendant's sentence.²⁰ If the defendant is convicted of a state jail felony, the court must decide whether the defendant is presumptively entitled to diligent participation credit ***if the offense was committed on or after September 1, 2011***. If the offense was committed prior to September 1, 2011, diligent participation credit does not apply, and the court should enter "N/A" as the answer.

An answer of "Yes" or "No" is required, if the defendant was convicted of a state jail felony committed on or after September 1, 2011. "N/A" is the default setting. Please remember to change the default setting to "Yes" or "No" if the offense occurred on or after September 1, 2011.

NOTE #1: "Yes" does not mean that the defendant will receive diligent participation credit. It simply lets TDCJ know that if the defendant meets the other legal requirements, the defendant is entitled to the credit.

¹⁹ Code Crim. Proc. art. 42.01, § 11.

²⁰ Code Crim. Proc. art. 42A.559 (h).

NOTE #2: TDCJ is receiving a high number of state jail judgments with "N/A" in the diligent participation section of the judgment forms. Please remember to choose "Yes" or "No" in the diligent participation section of the judgment for all state jail offense dates occurring on or after 09/01/2011. If no choice is made and the judgment contains an "N/A" designation, it will be treated as a "No."

COUNSEL/WAIVER OF COUNSEL:

Place an "X" in the appropriate box.

HOW TO HANDLE TRIAL IN ABSENTIA:

OCA did not create a separate judgment for trials in absentia. If the defendant was tried in absentia, edit the judgment form by deleting and replacing certain language. Delete "***This cause was called for (trial or jury) and the parties appeared,***" and replace it with, "***This cause was called and the parties, with the exception of Defendant, appeared.***" Delete "**Counsel/Waiver of Counsel (select one)**" and any option underneath it indicating that the defendant appeared. Finally, delete any other lines that are inconsistent with trial in absentia or that do not accurately reflect what occurred in the defendant's absence.

PUNISHMENT OPTIONS (SELECT ONE):

Complete this section if the sentence was executed or the defendant was ordered to serve confinement as a condition of community supervision or deferred adjudication. Put an "X" in the appropriate box. If the appropriate option is **Confinement as a Condition of Community Supervision**, enter the number of days and place of confinement in the boxes in the first sentence. If the court ordered the period of confinement to begin prior to the defendant's arrival at the place of confinement, the court must enter a special order to that effect. A special order is provided in ***Affirmative Findings and Special Orders for the felony judgment forms.***

NOTE: There are limits to the number of days the defendant can serve in jail as a condition of community supervision or deferred adjudication (see below). If the judgment exceeds these limits, the judgment may contain an illegal condition.

County jail: (misdemeanor) $X \leq 30$ days; (felony) $X \leq 180$ days²¹

State Jail: $(90 \text{ days} \leq X \leq 180 \text{ days})$ ²²

State Jail: if convicted of certain drug offenses $(90 \text{ days} \leq X \leq \text{a year})$ ²³*

State Jail: modification of conditions after violation $(90 \text{ days} \leq X \leq 180 \text{ days})$ ²⁴

(*Drug offenses include offenses under §§481.112, 481.1121, 481.113, or 481.120, HSC)

EXAMPLES

On 08/31/2018, Defendant was convicted of Possession of a Controlled Substance and sentenced to 15 months in the state jail. However, the court suspended the sentence and placed Defendant on probation for 2 years. The court ordered Defendant to serve 90 days in the state jail as a condition of probation. After sentencing, Defendant spent 60 days in the county jail before he was transported to state jail. How many days will Defendant serve in state jail?

90 DAYS - Confinement begins when Defendant arrives.

What should the court do if the court wants Defendant to receive credit for the 60 days spent in the county jail?

The court should enter a special order providing a different date for the sentence of confinement to begin. DO NOT ENTER A DATE FOR **"DATE SENTENCE COMMENCES"** ON THE FRONT OF THE JUDGMENT. That date represents the date confinement begins after the court orders the sentence executed, not suspended, as is the case when the defendant is placed on community supervision.

²¹Code Crim. Proc. art. 42A.302.

²² Code Crim. Proc. art. 42A.555(a)(1).

²³ Code Crim. Proc. art. 42A.555(a)(2).

²⁴ Code Crim. Proc. art. 42A.556.

FINES IMPOSED INCLUDE: (*Check each fine and enter each amount as pronounced by the court.*)

Complete this section only if the court pronounced fines in the defendant's presence.²⁵ Place an "X" in the box for each fine pronounced by the judge and enter the amount pronounced. If the judge did not pronounce the fine and amount, do not place an "X" in the box for that fine. The court has to pronounce all fines in the defendant's presence, whether general, special, mandatory, or optional. If the court proceeds in the defendant's absence, the judge must still pronounce all fines. The written judgment must contain only those fines pronounced by the judge.

The sum of all fines checked in this section must equal the total reflected for fines on the first page of the judgment. The statutory amount authorized for each fine is in parenthesis. The amounts provided are for guidance purposes only and do not control. The judge's pronouncement controls *what* fines apply and *how much* will be levied.

DWI Traffic Fines are calculated in accordance with Transportation Code §709.001. Basically, the fine is \$3,000 for the first conviction within a 3-year period. For a second or subsequent conviction within 3-years period, the fine is \$4,500. However, if it shown on the trial (*or plea*) of the offense that the defendant had an alcohol concentration of 0.15 or more at the time an analysis was performed on the defendant's blood, breath, or urine, the fine is \$6,000 on a first or subsequent conviction. **However, if the court makes a finding that the defendant is indigent, the court must waive the fines imposed under *Section 709.001(c)*.**

NOTE: *A clerk may want to consult with the judge before assessing a fine if the defendant was placed on deferred adjudication, has not been found guilty, or committed the offense before the fine took effect or was modified.*

²⁵ There are exceptions to pronouncing the sentence in the defendant's presence; however, unless the court specifically announces its intent to proceed in the defendant's absence, the clerk should not automatically assume an exception applies. When in doubt, ask the judge before the court proceeds to the next case, if possible.

EXECUTION OF SENTENCE:

Put an "X" in the box if the court ordered the sentence executed. This means that the court did not place the defendant on community supervision or deferred adjudication. **Do not mark this box, if the box on the front page indicates the sentence was suspended or deferred.**

NOTE: The defendant is not entitled to jail time credit for confinement served as a condition of community supervision or deferred adjudication.²⁶

DATE SENTENCE ENTERED:

This is the date that the judge signed the judgment.

AFFIRMATIVE FINDING REGARDING FELONY CONVICTION:

Courts are required to make and enter an affirmative finding in the judgment if the defendant is found guilty of a felony offense.²⁷ Additionally, the court must instruct the defendant regarding how the felony conviction will impact the defendant's right to vote. ***A clerk should put an "X" in the box only if the court pronounces the affirmative finding in court and on the record.***

AFFIRMATIVE FINDINGS AND SPECIAL ORDERS: (***NEW*** entries are in red)

Affirmative findings and special orders can impact a defendant's punishment, eligibility for parole or mandatory supervision, or duty to register as a sex offender. For example, if the court enters an affirmative finding that the offense was committed because of the defendant's bias or prejudice, the defendant must perform 300 hours of community service upon the defendant's release on parole or mandatory supervision.²⁸

Most affirmative findings are mandated by statute. For instance, [Article 42.0194](#) of the Code of Criminal Procedure requires the court to make and enter an affirmative finding in the judgment if the defendant is found guilty of a felony offense. Also, **effective September**

²⁶ Code Crim. Proc. arts. 42.03 §2(a)(1), 42A.755(c).

²⁷ Code Crim. Proc. art. 42.0194.

²⁸ Gov't Code § 508.188.

1, 2025, courts must enter an affirmative finding related to the defendant's willful failure to appear or to the defendant's use of metal or body armor during the commission of an offense. More specifically, Article 42.0195, Code of Criminal Procedure, requires courts entering a disposition in a Class B misdemeanor or higher category of offense to make an affirmative finding of fact and enter the affirmative finding in the judgment if the defendant **willfully** failed to appear after the defendant's release from custody for the offense*, and Article 42.01992, Code of Criminal Procedure, requires courts to enter an affirmative finding in the judgment if the judge or jury determined beyond a reasonable doubt that the defendant used metal or body armor during the commission of the offense. Model language for an affirmative finding under Article 42.0195 or 42.01992 is provided in the *Affirmative Findings and Special Orders* document on OCA's [website](#), or the court may draft its own language.

If the court entered an affirmative finding or special order, include it in the judgment or order of deferred adjudication. Model language for affirmative findings and special orders is provided in the *Affirmative Findings and Special Orders* document on OCA's [website](#). Cut and paste the appropriate finding or order in the judgment on the last page under **"Furthermore, the following special findings or orders apply"** and complete all entries (gray area) where required.

****NOTE: The affirmative finding regarding the defendant's failure to appear must include the number of times the defendant failed to appear. Article 42.0195 does not indicate whether the finding has to be entered for each offense charged in the indictment or under the same cause number. The best practice is to enter one finding per cause number, preferably on the highest category of offense under that cause number.***

WHOSE RESPONSIBILITY IS IT TO PREPARE THE JUDGMENT:

It is the court's responsibility to ensure a judgment is prepared. The court may prepare the judgment or order the state, defense attorney, or court clerk under the supervision of an attorney to prepare the judgment.²⁹

²⁹ Code Crim. Proc. art. 42.01 §2.

This document does not provide legal advice or modify the court's judgment, findings or orders in the case. The sole purpose of this document is to provide instructions and guidance for completing the felony judgment forms promulgated by OCA.

A FINAL NOTE:

The sentence served will be based on the information contained in the judgment.³⁰ Consequently, omissions and errors in the judgment must be corrected or addressed. Please respond promptly to any questions from TDCJ regarding the judgment or sentence in a case.

³⁰ See Code Crim. Proc. art. 42.01 §1.