

Affidavits and Declarations (Criminal) Research Guide

Overview

This research guide includes information and resources on affidavits and declarations related to criminal law. Both affidavits and declarations are types of sworn statements. An affidavit is “a voluntary declaration of facts written down and sworn to by a declarant, usually before an officer authorized to administer oaths,” like a notary. A declaration is “a formal statement, proclamation, or announcement, especially one embodied in an instrument.” (*Black Law Dictionary, 11th ed.*) The resources listed below are not exhaustive and may not include the most up-to-date information. It is for information purposes only and should not be construed as legal advice or act as the substitute for legal counsel.

Statutes and Codes

Texas Statutes Online www.statutes.capitol.texas.gov

Code of Criminal Procedure

- Ch. 1 General Provisions, § 1.15 Jury in Felony <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.1.htm#1.15>
- Ch. 11 Habeas Corpus, § 11.07 Procedure After Conviction Without Death Penalty <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.11.htm#11.07>
- Ch. 15 Arrest Under Warrant § 15.04 Complaint <https://statutes.capitol.texas.gov/Docs/CR/htm/CR.15.htm>

Texas Rules of Appellate Procedure <https://www.txcourts.gov/rules-forms/rules-standards/>

- §21.7 Types of Evidence Allowed at Hearing

Secondary Resources in Print

Texas Criminal Forms KFT 1775 .A6G5

- Vol. 1, Ch. 2 Motions Related to Searches of Places
 - III. Attacking the Search Warrant Affidavit
 - §2:30 Misrepresentations in Affidavit
 - §2:32 Sealing the Search Warrant Affidavit
 - IX Forms
 - Form 2-21 Affidavit of Authority to Settle Forfeiture Case
- Vol. 1, Ch. 3 Motions Related to Searches of Persons
 - III. Motions to Suppress Arrest Warrant
 - §3:30 Affidavit Requirements and Burden of Proof
- Vol. 1, Ch. 9 Bail and Bond Motions
 - Form 9-13 Affidavit of Surety to Surrender Principal
- Vol. 1 Ch. 10 Motions for DWI Cases
 - Form 10-14.2 Affidavit of Petitioner for Petition for Occupational Operators License
 - Form 10-15.2 Affidavit on Verified Petition for Occupational Driver's License with Interlock
 - Form 10-27.2 Defendant's Affidavit for Motion to Waive Traffic Fine for Conviction of Intoxicated Driver Offense
- Vol. 1, Ch. 12 Pre-Trial Motions
 - III. Change of Venue Motions
 - §12:43 Controverting Affidavits
 - XIX. Miscellaneous Motions

- §12:230 Affidavit of Non-Prosecution
 - XX. Forms
 - Form 12-49 Affidavit of Non-Prosecution
- Vol. 2, Ch. 15 Trial Motions
 - Form 15-51.2 Affidavit for Request for Attachment Under Art. 24.011
 - Form 15-51.5 Affidavit for Request for Attachment Under Art. 24.12
 - Form 15-51.8 Affidavit for Request for Attachment Under Art. 24.14
 - Form 15-51-11 Affidavit for Request for Attachment Under Art. 24.22
- Vol. 2, Ch. 16 Evidence
 - I. Business Records
 - §16:05 Requirements of Affidavit
 - X. Forms
 - Form 16-2.1 Business Records Affidavit
 - Form 16-2.2 Affidavit of No Records
- Vol. 2, Ch. 21 Post-Trial Proceedings
 - I. Motions for New Trial
 - §21:03 Affidavit Requirements

Texas Criminal Practice Guide KFT 1775 .T49

- Vol. 1, Ch. 1 Attorney-Client Relationship
 - §1.105 Affidavit of Indigency
 - §1.110 Affidavit in Support of Motion for Substitution
 - §1.112 Affidavit in Support of Motion to Withdraw
- Vol. 1, Ch. 10 Arrest
 - §10.102 Affidavit
- Vol. 1, Ch. 31 Search Pursuant to Warrant
 - §31.03 Supporting Affidavit
 - §31.101 Affidavit in Support of Search Warrant
 - §31.106 affidavit in Support of motion for Hearing to Establish False Statement in Affidavit
- Vol. 2, Chapter 61 Use of Scientific and Expert Evidence
 - §61.101 Affidavit Denying Signature
- Vol. 3, Ch. 70 Plea Negotiations
 - §70.105 Affidavit of Nonprosecution
- Vol. 3, Ch. 72 Formation of Jury

- §72.102 Affidavit in Support of Challenge

CLE Materials

Advanced Criminal Law Course KFT 1761 .S7

- 2021 Ch. 12 Motions for New Trial – Evidentiary Hearings
 - Section C. Supporting Affidavit, p. 9
- 2020 Ch. 1 U.S. Supreme Court & Court of Criminal Appeals Update 2019-2020
 - IV. Confrontation Clause – An Article 38.41 Certificate of Analysis Can Be Supported by and Affidavit from Someone other than the Analyst who Conducted the Testing, p. 15
- 2020 Ch. 17 DWI Case Law Update
 - Section D. Blood draws without a warrant, 22. *Hyland* and excised blood warrant affidavit “clearly” shows PC, p. 25
 - Section E. Blood draw with a warrant, 5. *Hodges* and blood draw warrant void b/c unsworn affidavit, p. 26
- 2020 Ch. 23 Motions for New Trial
- 2020 Ch. 41 Preservation of Error: You Can’t Win Appellate Lotto Without Buying a Ticket
 - Section X. Motions for New Trial, G. Consider Affidavits in Lieu of a Hearing, p. 27
- 2020 Ch. 52 Fourth Amendment
 - II. Exclusionary Rule, Section C.4. Affidavit totally lacking in probable cause

Online Resources

Affidavit of Non-Prosecution

[https://www.tarrantcountytexas.gov/content/dam/mai n/law-library/pdfs/Affidavit for Non Prosecution.pdf](https://www.tarrantcountytexas.gov/content/dam/mai n/law-library/pdfs/Affidavit%20for%20Non%20Prosecution.pdf)

Application/Affidavit for Appointments to Death Penalty Appeals (Texas Judicial Branch)

<https://www.txcourts.gov/media/614148/AppealsApplication.pdf>

Legal Assistance

Legal Lines – Ask Attorneys simple legal questions (free service)

- Tarrant County LegalLine Sign-up
<https://www.tarrantbar.org/>
- Dallas County LegalLine Sign-up
<https://www.dallasbar.org/index.cfm?pg=legalline>

Tarrant County Bar Association Lawyer Referral Service: 817-336-4101 (\$20 for the first 30 minutes)



