

PRELIMINARY DRAFT

TEXAS LEGISLATIVE COUNCIL
Code of Criminal
Procedure
Chapter 50A
1/6/25

CHAPTER 50A. FIRE INQUESTS

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CHAPTER 50A. FIRE INQUESTS

Revised Law

15 Art. 50A.001. FIRES REQUIRING INQUEST. A justice of the

16 peace shall conduct a fire inquest if a credible person makes an

17 affidavit before the justice of the peace that there is reason to

18 believe a building has been unlawfully set or attempted to be set on

19 fire. (Code Crim. Proc., Art. 50.01.)

Source Law

21 Art. 50.01. INVESTIGATIONS. When an affidavit

22 is made by a credible person before any justice of the

23 peace that there is ground to believe that any building

24 has been unlawfully set or attempted to be set on fire,

25 such justice shall cause the truth of such complaint to

26 be investigated.

Revisor's Note

27

28 Article 50.01, Code of Criminal Procedure,

29 provides that when a credible person makes an

1 affidavit that any building has been unlawfully set or
2 attempted to be set on fire, the justice of the peace
3 shall "cause the truth of such complaint to be
4 investigated." For consistency in the terminology
5 used in the revised chapter, the revised law
6 substitutes "conduct a fire inquest" for the quoted
7 language because it is clear from the context that the
8 duty to investigate is the duty to conduct a fire
9 inquest under Chapter 50, Code of Criminal Procedure.
10 "Fire inquest" is the general reference for the
11 implementation of that duty to investigate.

12 Revised Law

13 Art. 50A.002. FIRE INQUEST PROCEEDINGS GOVERNED BY LAWS
14 RELATING TO DEATH INQUESTS; POWERS OF INVESTIGATOR. (a) Except as
15 otherwise provided by this chapter, a fire inquest proceeding under
16 this chapter is governed by the laws relating to death inquests
17 under Chapter 49A.

18 (b) An officer conducting a fire inquest under this chapter
19 has the same powers as a justice of the peace under Chapter 49A.
20 (Code Crim. Proc., Art. 50.02; New.)

21 Source Law

22 Art. 50.02. PROCEEDINGS. The proceedings in
23 such case shall be governed by the laws relating to
24 inquests upon dead bodies. The officer conducting such
25 investigations shall have the same powers as are
26 conferred upon justices of the peace in the preceding
27 Articles of this Chapter.

28 Revisor's Note

29 (1) Article 50.02, Code of Criminal Procedure,
30 provides that a proceeding is governed by the laws
31 relating to death inquests. For the convenience of the
32 reader, the revised law adds "[e]xcept as otherwise
33 provided by this chapter" to indicate that exceptions
34 to that requirement are contained in revised Chapter
35 50A, Code of Criminal Procedure.

36 (2) Article 50.02, Code of Criminal Procedure,

1 refers to the laws relating to "inquests upon dead
2 bodies." The revised law substitutes "death inquests
3 under Chapter 49A" for the quoted language because the
4 provisions governing inquests upon dead bodies, or
5 death inquests, are contained in Chapter 49, Code of
6 Criminal Procedure, revised as Chapter 49A of that
7 code.

8 (3) Article 50.02, Code of Criminal Procedure,
9 refers to an officer conducting "such investigations."
10 The revised law substitutes "a fire inquest" for the
11 quoted language for the reason stated in the revisor's
12 note to Article 50A.001.

13 (4) Article 50.02, Code of Criminal Procedure,
14 refers to the powers conferred on a justice of the
15 peace "in the preceding Articles of this Chapter." The
16 quoted language is a drafting error as the only
17 preceding article of Chapter 50, Code of Criminal
18 Procedure, is Article 50.01 of that chapter, and that
19 article does not contain any powers. To address the
20 drafting error, which originates from the 1925
21 compilation of Texas statutes and which the 1965
22 codification of the Code of Criminal Procedure
23 continued, the revised law substitutes "under Chapter
24 49A" for the quoted language because it is clear from
25 the organization of the Code of Criminal Procedure
26 before 1925 that the preceding articles referred to by
27 Article 50.02 are those articles governing death
28 inquests in Chapter 49, Code of Criminal Procedure,
29 revised as Chapter 49A, Code of Criminal Procedure.

30 Before 1925, the laws on death inquests and fire
31 inquests were contained in the same title, Title 13,
32 Code of Criminal Procedure, and organized into two
33 chapters: "CHAPTER ONE. INQUESTS UPON DEAD BODIES" and
34 "CHAPTER TWO. FIRE INQUESTS." The language of Article

1 1082, Code of Criminal Procedure of the State of Texas,
2 1911, on which Article 50.02 is based, read: "The
3 proceedings in such case shall be governed by the same
4 rules as are provided in the preceding chapter of this
5 title concerning inquests upon dead bodies, and the
6 officer conducting such investigation shall have the
7 same powers as are conferred upon justices of the peace
8 in the *preceding chapter*" (emphasis added), meaning
9 Chapter One, Title 13, Code of Criminal Procedure of
10 the State of Texas, 1911, "INQUESTS UPON DEAD BODIES."

11 With the 1925 Revised Criminal Statutes, the
12 legislature maintained the two subjects, death
13 inquests and fire inquests, in the same title, Title
14 13, but removed the designations of "CHAPTER ONE" and
15 "CHAPTER TWO" for those subjects and retained only the
16 numbered designations "1" and "2" without further
17 labeling the organizational unit. The relevant
18 language of Article 1082 was revised as Article 991 and
19 read: ". . . The officer conducting such investigation
20 shall have the same powers as are conferred upon
21 justices of the peace in the preceding articles of *this*
22 *chapter*" (emphasis added). See Article 991, Title 13,
23 Code of Criminal Procedure of the State of Texas, 1925.
24 That change is the drafting error being addressed in
25 this revision, because there were no clear chapter
26 designations in Title 13 at that time and because the
27 only preceding article of the presumed chapter,
28 Article 990, did not contain any powers. See Article
29 990, Title 13, Code of Criminal Procedure of the State
30 of Texas, 1925. The 1965 codification of the Code of
31 Criminal Procedure failed to address the drafting
32 error "in the preceding articles of this chapter," and
33 further obfuscated the issue by eliminating Title 13
34 on death inquests and fire inquests, though it did

1 create the new chapter designations of Chapters 49 and
2 50, Code of Criminal Procedure, for death inquests and
3 fire inquests, respectively. Given this legislative
4 history, it is clear from the context that the
5 following quoted language, "the preceding articles of
6 this chapter," does not refer to Article 50.01 and
7 refers instead to Chapter 49, revised as Chapter 49A,
8 Code of Criminal Procedure.

9 Revised Law

10 Art. 50A.003. WITNESS TESTIMONY. The testimony of each
11 witness examined before a jury in a fire inquest under this chapter
12 shall be:

13 (1) reduced to writing by or under the direction of the
14 justice of the peace; and

15 (2) signed by the witness. (Code Crim. Proc., Art.
16 50.06 (part).)

17 Source Law

18 Art. 50.06. TESTIMONY WRITTEN DOWN. In all such
19 investigations, the testimony of all witnesses
20 examined before the jury shall be reduced to writing by
21 or under the direction of the justice and signed by
22 each witness. . . .

23 Revisor's Note

24 Article 50.06, Code of Criminal Procedure, refers
25 to "all such investigations" conducted by a justice of
26 the peace. The revised law substitutes "a fire
27 inquest" for the quoted language for the reason stated
28 in the revisor's note to Article 50A.001.

29 Revised Law

30 Art. 50A.004. JURY VERDICT IN FIRE INQUEST. (a) After
31 inspecting the location that is the subject of a fire inquest and
32 hearing the testimony, a jury in the inquest shall deliver to the
33 justice of the peace conducting the inquest the jury's written
34 signed verdict, in which the jury shall find and certify:

35 (1) how and in what manner the fire occurred or was
36 attempted to be set and all other circumstances attending the fire

1 or attempted fire; and

2 (2) the person guilty of setting or attempting to set
3 the fire, and the manner of the person's guilt.

4 (b) If the jury is unable to make a determination under
5 Subsection (a)(1) or (2), the jury shall find and certify
6 accordingly. (Code Crim. Proc., Art. 50.03.)

7 Source Law

8 Art. 50.03. VERDICT IN FIRE INQUEST. The jury
9 after inspecting the place in question and after
10 hearing the testimony, shall deliver to the justice
11 holding such inquest its written signed verdict in
12 which it shall find and certify how and in what manner
13 such fire happened or was attempted, and all the
14 circumstances attending the same, and who are guilty
15 thereof, and in what manner. If such a jury is unable
16 to so ascertain, it shall find and certify
17 accordingly.

18 Revised Law

19 Art. 50A.005. WITNESSES BOUND OVER. If the jury finds that
20 a building has been unlawfully set or attempted to be set on fire,
21 the justice of the peace conducting the fire inquest shall bind over
22 each witness to appear and testify before the next grand jury of the
23 county in which the offense was committed. (Code Crim. Proc., Art.
24 50.04.)

25 Source Law

26 Art. 50.04. WITNESSES BOUND OVER. If the jury
27 finds that any building has been unlawfully set on fire
28 or has been attempted so to be, the justice holding
29 such inquest shall bind over the witnesses to appear
30 and testify before the next grand jury of the county in
31 which such offense was committed.

32 Revised Law

33 Art. 50A.006. ISSUANCE OF ARREST WARRANT. If a person
34 charged with the offense described by Article 50A.005 is not in
35 custody, the justice of the peace conducting the fire inquest shall
36 issue a warrant for the person's arrest. (Code Crim. Proc., Art.
37 50.05.)

38 Source Law

39 Art. 50.05. WARRANT FOR ACCUSED. If the person
40 charged with the offense, if any, be not in custody,
41 the justice of the peace shall issue a warrant for his
42 arrest, and when arrested, such person shall be dealt
43 with as in other like cases.

1 Revisor's Note

2 (1) Article 50.05, Code of Criminal Procedure,
3 provides conditions under which a justice of the peace
4 shall issue a warrant for the arrest of a person
5 "charged with the offense." It is clear from the
6 context of the chapter that "the offense" is a
7 secondary reference to an offense described by Article
8 50.04, Code of Criminal Procedure, revised in this
9 chapter as Article 50A.005 of that code. For clarity
10 and the convenience of the reader, the revised law adds
11 a cross-reference to that article.

12 (2) Article 50.05, Code of Criminal Procedure,
13 provides for the arrest of a suspect and further
14 provides that, "when arrested, such person shall be
15 dealt with as in other like cases." The revised law
16 omits the quoted language as unnecessary because a
17 provision relating to the arrest of a person applies on
18 its own terms.

19 Revised Law

20 Art. 50A.007. INQUEST RESULT REPORTED TO DISTRICT COURT.

21 (a) The justice of the peace conducting the inquest shall certify
22 the testimony described by Article 50A.003, the verdict, and all
23 bail bonds taken in the case.

24 (b) The justice of the peace shall return the items
25 described by Subsection (a) to the next district or criminal
26 district court of the justice's county. (Code Crim. Proc., Art.
27 50.06 (part).)

28 Source Law

29 Art. 50.06. . . . Such testimony together with
30 the verdict and all bail bonds taken in the case shall
31 be certified to and returned by the justice to the next
32 district or criminal district court of his county.

33 Revisor's Note

34 Article 50.06, Code of Criminal Procedure, refers
35 to "[s]uch testimony," meaning the written and signed

1 witness testimony described by the first sentence of
2 that article. The relevant provision of that article
3 describing the written and signed witness testimony is
4 revised in this chapter as Article 50A.003, Code of
5 Criminal Procedure. The revised law adds a
6 cross-reference to that article for clarity and the
7 convenience of the reader.

8 Revised Law

9 Art. 50A.008. COMPENSATION FOR OFFICERS AND JURY. The
10 amount and manner of compensation for the officers and jury members
11 performing a fire inquest under this chapter shall, to the extent
12 applicable, be the same as that allowed for an inquest conducted
13 under Chapter 49A. (Code Crim. Proc., Art. 50.07.)

14 Source Law

15 Art. 50.07. COMPENSATION. The pay of the
16 officers and jury making such investigation shall be
17 the same as that allowed for the holding of an inquest
18 upon a dead body, so far as applicable, and shall be
19 paid in like manner.

20 Revisor's Note

21 (1) Article 50.07, Code of Criminal Procedure,
22 refers to the "pay" for the officers and jury
23 performing a fire inquest investigation. The revised
24 law substitutes "amount" for "pay" because, in
25 context, the words are synonymous and "amount" is more
26 consistent with modern usage.

27 (2) Article 50.07, Code of Criminal Procedure,
28 refers to the officers and jury "making such
29 investigation." The revised law substitutes
30 "performing a fire inquest" for the quoted language
31 for the reason stated in the revisor's note to Article
32 50A.001.

33 (3) Article 50.07, Code of Criminal Procedure,
34 authorizes the compensation of certain persons
35 performing a fire inquest investigation in the same
36 manner as persons compensated for "the holding of an

1 inquest upon a dead body." The revised law substitutes
2 a cross-reference to Chapter 49A for the quoted
3 language for the reason stated in Revisor's Note (2) to
4 Article 50A.002.