|  |
| --- |
| **TEXAS CTE LESSON PLAN**[www.txcte.org](http://www.txcte.org) |
| **Lesson Identification and TEKS Addressed** |
| **Career Cluster** | Law, Public Safety, Corrections, and Security |
| **Course Name** | Court Systems and Practices |
| **Lesson/Unit Title** | Trial: Evidence & Burden of Proof |
| **TEKS Student Expectations** | **130.340. (c) Knowledge and Skills** (5) The student examines the steps by which a criminal charge is processed through pretrial, trial, adjudication, and the appellate stages. (C) The student is expected to distinguish between direct and circumstantial evidence and burden of proof for federal and state courts(E) The student is expected to identify the trial process from pretrial to sentencing |
| **Basic Direct Teach Lesson**(Includes Special Education Modifications/Accommodations and one English Language Proficiency Standards (ELPS) Strategy) |
| **Instructional Objectives** |

|  |
| --- |
| The student will be able to: |
| 1. Determine which party has the burden of proof in a criminal trial |
| 2. Differentiate between the burden of proof in a criminal trial and the |
| burden of proof in a civil trial |
| 3. Identify the types of evidence introduced in a criminal trial |
| 4. Describe the several types of evidence used in a criminal trial |
| 5. Distinguish between direct and circumstantial evidence, and burden of |
| Proof |
| 6. Identify the trial process, from pretrial to sentencing |

 |
| **Rationale** |

|  |
| --- |
| In this lesson, students will apply their understanding of the burden of proof in a |
| criminal trial, and will apply their understanding of the types of evidence used in |
| criminal trials. |

 |
| **Duration of Lesson** | Teacher’s Discretion |
| **Word Wall/Key Vocabulary***(ELPS c1a, c, f; c2b; c3a, b, d; c4c; c5b) PDAS II (5)* |  |
| **Materials/Specialized Equipment Needed** | * Trial: Evidence and Burden of Proof computer-based presentation
* Trial: Evidence and Burden of Proof Key
* Terms Handout Find the Evidence Word
* Search Computer with Projector/Screen
* Poster Board
* Markers
* Legal pads for Group Activity Questions and
* Note taking Computers with Internet access
 |
| **Anticipatory Set**(May include pre-assessment for prior knowledge) |

|  |
| --- |
| Before class write this question on the board: *List the type(s) of evidence that* |
| *must be introduced during a criminal trial to convict someone of* |
| *murder. Could someone be convicted of murder without a body? How? Have* |
| *students write their responses in their journals. Use the Writing Rubric for* |
| *assessment.* |

 |
| **Direct Instruction \*** |

|  |
| --- |
| I. Key Terms: |
| A. Burden of Proof – the legal requirement to introduce enough evidence |
|  |  |  |  |  |  |  |  |  |
|  | to prove an alleged fact or set of facts, based on the weight of the |
|  | evidence (not the amount of evidence) to convince a jury or judge |
| B. Preponderance of the Evidence – the burden of proof necessary in |
|  |  |  |  |  |  |  |  |
|  | order to win a civil case; requires that more than 50% of the weight of |
|  | the evidence be in favor of the party who wins the case |
| C. Beyond a Reasonable Doubt – the burden of proof necessary in order |
|  |  |  |  |  |  |  |
|  | to convict a person of a crime; does not need to convince the judge or |
|  | jury 100%, but if they have any reasonable doubt about the |
|  | defendant’s guilt, they cannot vote to convict the defendant |
| D. Reasonable Doubt – the doubt that a reasonable person might have |
|  |  |  |  |  |  |
|  | about the truth of an allegation of fact, or set of facts, after hearing the |
|  | evidence |
| E. Prosecutorial Discretion – the decision-making power of prosecutors |
|  |  |  |  |  |
|  | in handling, criminal cases; includes the decision to charge, dismiss |
|  | charges, and/or plea-bargain |
| F. Evidence – anything that can be used by a judge or jury in deciding |
|  |  |  |  |
|  | the facts of a case; it may take many forms, such as a testimony by a |
|  | witness, documents, videotapes, photographs, physical objects, etc. |
| G. Direct Evidence – evidence that, if believed, can directly prove a fact; |
|  |  |  |  |
|  | ex: testimony of an eyewitness |

* 1. Real Evidence – tangible evidence that may be admitted during a case; ex: a weapon used in a crime; also called *actual evidence*
	2. Circumstantial Evidence- indirect evidence that provides the judge or jury with information from which inferences may be drawn
	3. Demonstrative Evidence – a type of actual evidence or exhibit created to be used in court; ex: charts
	4. Documentary Evidence – a type of actual evidence that includes writings; ex: business records
	5. Testimony – evidence given under oath, either orally or by affidavit, by a competent witness
	6. Offered – evidence presented by a party in a court case; to be admitted into evidence, it must fall under the proper rule of evidence, or it may be kept out of the proceeding; ex: must be relevant to the case at hand
	7. Admitted – if not challenged as violating the rules of evidence by the opposing side, evidence “comes in” and is made a part of the case; admitted evidence can be considered by the judge or jury in rendering a decision
1. Burden of Proof– necessity to prove the facts that are in dispute at a trial. Must determine which party must prove the allegations made and how much proof is needed
	1. Civil Trial
		1. Preponderance of the evidence – plaintiff’s evidence is slightly more convincing than defendant’s evidence
		2. Plaintiff’s burden
	2. Criminal Trial
		1. Beyond a reasonable doubt – the prosecutor must convince the judge or jury that the defendant committed the crime. They must be 95% or more certain of the defendant’s guilt.
		2. State’s/Prosecutor’s burden – conviction of crime
		3. Defendant’s burden – defenses claimed
			1. Insanity
			2. Self-Defense
			3. Duress
			4. Entrapment
			5. Necessity
			6. Accident
2. Evidence
	1. Circumstantial evidence
		1. The most usual form of evidence
		2. Indirect evidence
		3. The judge and jury must draw conclusions based on inferences
	2. Direct evidence – directly proves a fact, such as the testimony of an eyewitness or a confession
3. Types of evidence
	1. Real – tangible evidence that may be admitted during a case; also called actual evidence
	2. Demonstrative – a type of actual evidence or exhibit created to be used in court
	3. Documentary – a type of actual evidence that includes writings
	4. Testimony – evidence given under oath, either orally or by affidavit, by a competent witness

IV. Evidence coming into trial1. Evidence must be relevant to the case at hand
2. Evidence must fall within the Rules of Evidence
	1. Encourages fairness
	2. Avoids judicial delay
	3. Assists in ascertaining the truth
3. Can include
	1. Stipulations – undisputed facts that opposing parties agree to in writing for the court
	2. Judicial Notice – recognition by the court that certain information is common knowledge
4. Evidence coming into trial
	1. Suppressed evidence – kept out of trial due to a legality
	2. Offered evidence – presented by a party in a court case; to be admitted it must fall under the proper rule of evidence
	3. Admitted
		1. “Comes in”
		2. Made a part of the case record
		3. Can be considered by judge or jury in rendering a decision
		4. If challenged by the opposing party, could be “kept out”
		5. Challenged through objections such as:
			1. Relevance
			2. Hearsay
			3. Lack of personal knowledge
			4. No proper predicate

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*For Reinforcement, students will list terms and explain how each term relates to the burden of proof, or circumstantial or direct evidence. Use the Individual Work Rubric for assessment. |
| **Guided Practice \*** | Analyze a Circumstantial Evidence Trial1. Divide students into two groups: Group 1 = Prosecution Team and Group 2 = Defense Team.
2. Explain that each group will be researching the same criminal case, which was based on a plethora of circumstantial evidence.
3. Explain the steps the groups need to follow:
	1. Research the case (internet)
	2. Gather all the facts (write down)
	3. Chart the facts for both sides on poster board
	4. Determine which facts support the position (guilty or not guilty)
	5. Argue the case with the opposing group
4. Monitor the progress of each group, and once ready, have the class debate between the two groups.
5. Discuss the actual outcome of the case.
6. Have each individual student write a short essay answer to the following question: *Do you agree with the actual outcome of this case? To* *support your answer, explain your answer using the facts gathered from your research.*

Use the Debate Rubric and the Essay Rubric for assessment.*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Independent Practice/Laboratory Experience/Differentiated Activities \*** | *Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **Lesson Closure** |  |
| **Summative/End of Lesson Assessment \***  | * Trial: Evidence and Burden of Proof Quiz and Key
* Debate Rubric
* Discussion Rubric
* Essay Rubric
* Individual Work Rubric
* Writing Rubric

*Individualized Education Plan (IEP) for all special education students must be followed. Examples of accommodations may include, but are not limited to:*NONE |
| **References/Resources/****Teacher Preparation** | 0131189794, *Criminal Courts: Structure, Process, & Issues* (2nd Edition), Dean John Champion, Richard D. Hartley, & Gary A. Rabe, Prentice Hall, 20070495599336 *Criminal Procedure: Law and Practice* (8th Edition), Rolando V. del Carmen, Wadsworth Publishing, 2009 |
| **Additional Required Components** |
| **English Language Proficiency Standards (ELPS) Strategies** |  |
| **College and Career Readiness Connection[[1]](#footnote-1)** | 1. Writing

A. Compose a variety of texts that demonstrate clear focus, the logical development of ideas in well-organized paragraphs, and the use of appropriate language that advances the author’s purpose.3. Evaluate relevance, quality, sufficiency, and depth of preliminary ideas and information, organize material generated, and formulate a thesis.5. Edit writing for proper voice, tense, and syntax, assuring that it conforms to standard English, when appropriate.1. Speaking

A. Understand the elements of communication both in informal group discussions and formal presentations 1. Understand how style and content of spoken language varies in different contexts and influences the listener’s understanding.2. Adjust presentation to audiences and purposes.B. Develop effective speaking styles for both group and one-on-one situations. 2.Participate actively and effectively in group discussions.1. Research

A. Formulate topic and questions* + 1. Explore a research topic.
 |
| **Recommended Strategies** |
| **Reading Strategies** |  |
| **Quotes** |  |
| **Multimedia/Visual Strategy****Presentation Slides + One Additional Technology Connection** |  |
| **Graphic Organizers/Handout** |  |
| **Writing Strategies****Journal Entries + 1 Additional Writing Strategy** |  |
| **Communication****90 Second Speech Topics** |  |
| **Other Essential Lesson Components** |
| **Enrichment Activity**(e.g., homework assignment) | For enrichment, students will pick three actual cases. Students will research each case and chart the evidence used in the case as “Direct Evidence” or “Circumstantial Evidence.” Students will write a short essay on the following question: *Do you believe that circumstantial evidence can be effective in* *obtaining a conviction in a criminal case? Why or why not?* Use the EssayRubric for assessment.  |
| **Family/Community Connection** |  |
| **CTSO connection(s)** | SkillsUSA |
| **Service Learning Projects** |  |
| **Lesson Notes** |  |

1. Visit the Texas College and Career Readiness Standards at <http://www.thecb.state.tx.us/collegereadiness/CRS.pdf>, Texas Higher Education Coordinating Board (THECB), 2009. [↑](#footnote-ref-1)