PENAL CODE

TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 1. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This code shall be known and may be cited as the Penal Code.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 1.02. OBJECTIVES OF CODE. The general purposes of this code are to establish a system of prohibitions, penalties, and correctional measures to deal with conduct that unjustifiably and inexcessably causes or threatens harm to those individual or public interests for which state protection is appropriate. To this end, the provisions of this code are intended, and shall be construed, to achieve the following objectives:

(1) to insure the public safety through:
   (A) the deterrent influence of the penalties hereinafter provided;
   (B) the rehabilitation of those convicted of violations of this code; and
   (C) such punishment as may be necessary to prevent likely recurrence of criminal behavior;

(2) by definition and grading of offenses to give fair warning of what is prohibited and of the consequences of violation;

(3) to prescribe penalties that are proportionate to the seriousness of offenses and that permit recognition of differences in rehabilitation possibilities among individual offenders;

(4) to safeguard conduct that is without guilt from condemnation as criminal;

(5) to guide and limit the exercise of official discretion in law enforcement to prevent arbitrary or oppressive treatment of persons suspected, accused, or convicted of offenses; and

(6) to define the scope of state interest in law
enforcement against specific offenses and to systematize the
exercise of state criminal jurisdiction.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994.

Sec. 1.03. EFFECT OF CODE. (a) Conduct does not constitute
an offense unless it is defined as an offense by statute, municipal
ordinance, order of a county commissioners court, or rule
authorized by and lawfully adopted under a statute.

(b) The provisions of Titles 1, 2, and 3 apply to offenses
defined by other laws, unless the statute defining the offense
provides otherwise; however, the punishment affixed to an offense
defined outside this code shall be applicable unless the punishment
is classified in accordance with this code.

(c) This code does not bar, suspend, or otherwise affect a
right or liability to damages, penalty, forfeiture, or other remedy
authorized by law to be recovered or enforced in a civil suit for
conduct this code defines as an offense, and the civil injury is not
merged in the offense.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994.

Sec. 1.04. TERRITORIAL JURISDICTION. (a) This state has
jurisdiction over an offense that a person commits by his own
conduct or the conduct of another for which he is criminally
responsible if:

(1) either the conduct or a result that is an element
of the offense occurs inside this state;

(2) the conduct outside this state constitutes an
attempt to commit an offense inside this state;

(3) the conduct outside this state constitutes a
conspiracy to commit an offense inside this state, and an act in
furtherance of the conspiracy occurs inside this state; or

(4) the conduct inside this state constitutes an
attempt, solicitation, or conspiracy to commit, or establishes
criminal responsibility for the commission of an offense in another jurisdiction that is also an offense under the laws of this state.

(b) If the offense is criminal homicide, a "result" is either the physical impact causing death or the death itself. If the body of a criminal homicide victim is found in this state, it is presumed that the death occurred in this state. If death alone is the basis for jurisdiction, it is a defense to the exercise of jurisdiction by this state that the conduct that constitutes the offense is not made criminal in the jurisdiction where the conduct occurred.

(c) An offense based on an omission to perform a duty imposed on an actor by a statute of this state is committed inside this state regardless of the location of the actor at the time of the offense.

(d) This state includes the land and water and the air space above the land and water over which this state has power to define offenses.


Sec. 1.05. CONSTRUCTION OF CODE. (a) The rule that a penal statute is to be strictly construed does not apply to this code. The provisions of this code shall be construed according to the fair import of their terms, to promote justice and effect the objectives of the code.

(b) Unless a different construction is required by the context, Sections 311.011, 311.012, 311.014, 311.015, and 311.021 through 311.032 of Chapter 311, Government Code (Code Construction Act), apply to the construction of this code.

(c) In this code:

(1) a reference to a title, chapter, or section without further identification is a reference to a title, chapter, or section of this code; and

(2) a reference to a subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without
further identification is a reference to a unit of the next-larger unit of this code in which the reference appears.
Amended by Acts 1985, 69th Leg., ch. 479, Sec. 69, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 1.06. COMPUTATION OF AGE. A person attains a specified age on the day of the anniversary of his birthdate.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 1.07. DEFINITIONS. (a) In this code:
(1) "Act" means a bodily movement, whether voluntary or involuntary, and includes speech.
(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action. Whenever the term "suspect" is used in this code, it means "actor."
(3) "Agency" includes authority, board, bureau, commission, committee, council, department, district, division, and office.
(4) "Alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.
(5) "Another" means a person other than the actor.
(6) "Association" means a government or governmental subdivision or agency, trust, partnership, or two or more persons having a joint or common economic interest.
(7) "Benefit" means anything reasonably regarded as economic gain or advantage, including benefit to any other person in whose welfare the beneficiary is interested.
(8) "Bodily injury" means physical pain, illness, or any impairment of physical condition.
(8-a) "Civil commitment facility" means a facility owned, leased, or operated by the state, or by a vendor under contract with the state, that houses only persons who have been civilly committed as sexually violent predators under Chapter 841, Health and Safety Code.
(9) "Coercion" means a threat, however communicated:
   (A) to commit an offense;
   (B) to inflict bodily injury in the future on the person threatened or another;
   (C) to accuse a person of any offense;
   (D) to expose a person to hatred, contempt, or ridicule;
   (E) to harm the credit or business repute of any person; or
   (F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.

(10) "Conduct" means an act or omission and its accompanying mental state.

(11) "Consent" means assent in fact, whether express or apparent.

(12) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(13) "Corporation" includes nonprofit corporations, professional associations created pursuant to statute, and joint stock companies.

(14) "Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:
   (A) a municipal or county jail;
   (B) a confinement facility operated by the Texas Department of Criminal Justice;
   (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
   (D) a community corrections facility operated by a community supervision and corrections department.

(15) "Criminal negligence" is defined in Section 6.03 (Culpable Mental States).

(16) "Dangerous drug" has the meaning assigned by Section 483.001, Health and Safety Code.

(17) "Deadly weapon" means:
   (A) a firearm or anything manifestly designed,
made, or adapted for the purpose of inflicting death or serious bodily injury; or

(B) anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.

(18) "Drug" has the meaning assigned by Section 481.002, Health and Safety Code.

(19) "Effective consent" includes consent by a person legally authorized to act for the owner. Consent is not effective if:

(A) induced by force, threat, or fraud;
(B) given by a person the actor knows is not legally authorized to act for the owner;
(C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or
(D) given solely to detect the commission of an offense.

(20) "Electric generating plant" means a facility that generates electric energy for distribution to the public.

(21) "Electric utility substation" means a facility used to switch or change voltage in connection with the transmission of electric energy for distribution to the public.

(22) "Element of offense" means:
(A) the forbidden conduct;
(B) the required culpability;
(C) any required result; and
(D) the negation of any exception to the offense.

(23) "Felony" means an offense so designated by law or punishable by death or confinement in a penitentiary.

(24) "Government" means:
(A) the state;
(B) a county, municipality, or political subdivision of the state; or
(C) any branch or agency of the state, a county, municipality, or political subdivision.

(25) "Harm" means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in
whose welfare the person affected is interested.

(26) "Individual" means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

(27) Repealed by Acts 2009, 81st Leg., R.S., Ch. 87, Sec. 25.144, eff. September 1, 2009.

(28) "Intentional" is defined in Section 6.03 (Culpable Mental States).

(29) "Knowing" is defined in Section 6.03 (Culpable Mental States).

(30) "Law" means the constitution or a statute of this state or of the United States, a written opinion of a court of record, a municipal ordinance, an order of a county commissioners court, or a rule authorized by and lawfully adopted under a statute.

(31) "Misdemeanor" means an offense so designated by law or punishable by fine, by confinement in jail, or by both fine and confinement in jail.

(32) "Oath" includes affirmation.

(33) "Official proceeding" means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

(34) "Omission" means failure to act.

(35) "Owner" means a person who:

(A) has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor; or

(B) is a holder in due course of a negotiable instrument.

(36) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, Section 51.212 or 51.214, Education Code, or other law.

(37) "Penal institution" means a place designated by law for confinement of persons arrested for, charged with, or convicted of an offense.

(38) "Person" means an individual, corporation, or association.

(39) "Possession" means actual care, custody,
control, or management.

(40) "Public place" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(41) "Public servant" means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties:

(A) an officer, employee, or agent of government;
(B) a juror or grand juror; or
(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy; or
(D) an attorney at law or notary public when participating in the performance of a governmental function; or
(E) a candidate for nomination or election to public office; or
(F) a person who is performing a governmental function under a claim of right although he is not legally qualified to do so.

(42) "Reasonable belief" means a belief that would be held by an ordinary and prudent man in the same circumstances as the actor.

(43) "Reckless" is defined in Section 6.03 (Culpable Mental States).

(44) "Rule" includes regulation.

(45) "Secure correctional facility" means:

(A) a municipal or county jail; or
(B) a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice.

(46) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.
(46-a) "Sight order" means a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay. The term includes a check, an electronic debit, or an automatic bank draft.

(46-b) "Federal special investigator" means a person described by Article 2.122, Code of Criminal Procedure.

(47) "Swear" includes affirm.

(48) "Unlawful" means criminal or tortious or both and includes what would be criminal or tortious but for a defense not amounting to justification or privilege.

(49) "Death" includes, for an individual who is an unborn child, the failure to be born alive.

(b) The definition of a term in this code applies to each grammatical variation of the term.


Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.144, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 421 (H.B. 2031), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 839 (H.B. 3423), Sec. 1, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 26, eff. September 1, 2017.

Sec. 1.08. PREEMPTION. No governmental subdivision or agency may enact or enforce a law that makes any conduct covered by
this code an offense subject to a criminal penalty. This section shall apply only as long as the law governing the conduct proscribed by this code is legally enforceable.


Sec. 1.09. CONCURRENT JURISDICTION UNDER THIS CODE TO PROSECUTE OFFENSES THAT INVOLVE STATE PROPERTY. With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute under this code any offense an element of which occurs on state property or any offense that involves the use, unlawful appropriation, or misapplication of state property, including state funds.

Added by Acts 2007, 80th Leg., R.S., Ch. 378 (S.B. 563), Sec. 1, eff. June 15, 2007.
PENAL CODE

TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 2. BURDEN OF PROOF

Sec. 2.01. PROOF BEYOND A REASONABLE DOUBT. All persons are presumed to be innocent and no person may be convicted of an offense unless each element of the offense is proved beyond a reasonable doubt. The fact that he has been arrested, confined, or indicted for, or otherwise charged with, the offense gives rise to no inference of guilt at his trial.

Sec. 2.02. EXCEPTION. (a) An exception to an offense in this code is so labeled by the phrase: "It is an exception to the application of . . . ."

(b) The prosecuting attorney must negate the existence of an exception in the accusation charging commission of the offense and prove beyond a reasonable doubt that the defendant or defendant's conduct does not fall within the exception.

(c) This section does not affect exceptions applicable to offenses enacted prior to the effective date of this code.

Sec. 2.03. DEFENSE. (a) A defense to prosecution for an offense in this code is so labeled by the phrase: "It is a defense to prosecution . . . ."

(b) The prosecuting attorney is not required to negate the existence of a defense in the accusation charging commission of the offense.

(c) The issue of the existence of a defense is not submitted to the jury unless evidence is admitted supporting the defense.

(d) If the issue of the existence of a defense is submitted to the jury, the court shall charge that a reasonable doubt on the
issue requires that the defendant be acquitted.

(e) A ground of defense in a penal law that is not plainly labeled in accordance with this chapter has the procedural and evidentiary consequences of a defense.


Sec. 2.04. AFFIRMATIVE DEFENSE. (a) An affirmative defense in this code is so labeled by the phrase: "It is an affirmative defense to prosecution . . . ."

(b) The prosecuting attorney is not required to negate the existence of an affirmative defense in the accusation charging commission of the offense.

(c) The issue of the existence of an affirmative defense is not submitted to the jury unless evidence is admitted supporting the defense.

(d) If the issue of the existence of an affirmative defense is submitted to the jury, the court shall charge that the defendant must prove the affirmative defense by a preponderance of evidence.


Sec. 2.05. PRESUMPTION. (a) Except as provided by Subsection (b), when this code or another penal law establishes a presumption with respect to any fact, it has the following consequences:

(1) if there is sufficient evidence of the facts that give rise to the presumption, the issue of the existence of the presumed fact must be submitted to the jury, unless the court is satisfied that the evidence as a whole clearly precludes a finding beyond a reasonable doubt of the presumed fact; and

(2) if the existence of the presumed fact is submitted to the jury, the court shall charge the jury, in terms of the presumption and the specific element to which it applies, as follows:
(A) that the facts giving rise to the presumption must be proven beyond a reasonable doubt;

(B) that if such facts are proven beyond a reasonable doubt the jury may find that the element of the offense sought to be presumed exists, but it is not bound so find;

(C) that even though the jury may find the existence of such element, the state must prove beyond a reasonable doubt each of the other elements of the offense charged; and

(D) if the jury has a reasonable doubt as to the existence of a fact or facts giving rise to the presumption, the presumption fails and the jury shall not consider the presumption for any purpose.

(b) When this code or another penal law establishes a presumption in favor of the defendant with respect to any fact, it has the following consequences:

(1) if there is sufficient evidence of the facts that give rise to the presumption, the issue of the existence of the presumed fact must be submitted to the jury unless the court is satisfied that the evidence as a whole clearly precludes a finding beyond a reasonable doubt of the presumed fact; and

(2) if the existence of the presumed fact is submitted to the jury, the court shall charge the jury, in terms of the presumption, that:

(A) the presumption applies unless the state proves beyond a reasonable doubt that the facts giving rise to the presumption do not exist;

(B) if the state fails to prove beyond a reasonable doubt that the facts giving rise to the presumption do not exist, the jury must find that the presumed fact exists;

(C) even though the jury may find that the presumed fact does not exist, the state must prove beyond a reasonable doubt each of the elements of the offense charged; and

(D) if the jury has a reasonable doubt as to whether the presumed fact exists, the presumption applies and the jury must consider the presumed fact to exist.

1, 1975; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:
Acts 2005, 79th Leg., Ch. 288 (H.B. 823), Sec. 2, eff. September 1, 2005.
PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 6. CULPABILITY GENERALLY

Sec. 6.01. REQUIREMENT OF VOLUNTARY ACT OR OMISSION. (a) A person commits an offense only if he voluntarily engages in conduct, including an act, an omission, or possession.

(b) Possession is a voluntary act if the possessor knowingly obtains or receives the thing possessed or is aware of his control of the thing for a sufficient time to permit him to terminate his control.

(c) A person who omits to perform an act does not commit an offense unless a law as defined by Section 1.07 provides that the omission is an offense or otherwise provides that he has a duty to perform the act.


Sec. 6.02. REQUIREMENT OF CULPABILITY. (a) Except as provided in Subsection (b), a person does not commit an offense unless he intentionally, knowingly, recklessly, or with criminal negligence engages in conduct as the definition of the offense requires.

(b) If the definition of an offense does not prescribe a culpable mental state, a culpable mental state is nevertheless required unless the definition plainly dispenses with any mental element.

(c) If the definition of an offense does not prescribe a culpable mental state, but one is nevertheless required under Subsection (b), intent, knowledge, or recklessness suffices to establish criminal responsibility.

(d) Culpable mental states are classified according to relative degrees, from highest to lowest, as follows:

(1) intentional;

(2) knowing;
(3) reckless;
(4) criminal negligence.

(e) Proof of a higher degree of culpability than that charged constitutes proof of the culpability charged.

(f) An offense defined by municipal ordinance or by order of a county commissioners court may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding the amount authorized by Section 12.23.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:
Acts 2005, 79th Leg., Ch. 1219 (H.B. 970), Sec. 1, eff. September 1, 2005.

Sec. 6.03. DEFINITIONS OF CULPABLE MENTAL STATES. (a) A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

(c) A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

(d) A person acts with criminal negligence, or is criminally negligent, with respect to circumstances surrounding his conduct or the result of his conduct when he ought to be aware of a substantial
and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Sec. 6.04. CAUSATION: CONDUCT AND RESULTS. (a) A person is criminally responsible if the result would not have occurred but for his conduct, operating either alone or concurrently with another cause, unless the concurrent cause was clearly sufficient to produce the result and the conduct of the actor clearly insufficient.

(b) A person is nevertheless criminally responsible for causing a result if the only difference between what actually occurred and what he desired, contemplated, or risked is that:

(1) a different offense was committed; or

(2) a different person or property was injured, harmed, or otherwise affected.
PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 7. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER

SUBCHAPTER A. COMPLICITY

Sec. 7.01. PARTIES TO OFFENSES. (a) A person is criminally responsible as a party to an offense if the offense is committed by his own conduct, by the conduct of another for which he is criminally responsible, or by both.

(b) Each party to an offense may be charged with commission of the offense.

(c) All traditional distinctions between accomplices and principals are abolished by this section, and each party to an offense may be charged and convicted without alleging that he acted as a principal or accomplice.


Sec. 7.02. CRIMINAL RESPONSIBILITY FOR CONDUCT OF ANOTHER.

(a) A person is criminally responsible for an offense committed by the conduct of another if:

(1) acting with the kind of culpability required for the offense, he causes or aids an innocent or nonresponsible person to engage in conduct prohibited by the definition of the offense;

(2) acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense; or

(3) having a legal duty to prevent commission of the offense and acting with intent to promote or assist its commission, he fails to make a reasonable effort to prevent commission of the offense.

(b) If, in the attempt to carry out a conspiracy to commit one felony, another felony is committed by one of the conspirators, all conspirators are guilty of the felony actually committed, though having no intent to commit it, if the offense was committed
in furtherance of the unlawful purpose and was one that should have been anticipated as a result of the carrying out of the conspiracy. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 7.03. DEFENSES EXCLUDED. In a prosecution in which an actor's criminal responsibility is based on the conduct of another, the actor may be convicted on proof of commission of the offense and that he was a party to its commission, and it is no defense:

(1) that the actor belongs to a class of persons that by definition of the offense is legally incapable of committing the offense in an individual capacity; or

(2) that the person for whose conduct the actor is criminally responsible has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

SUBCHAPTER B. CORPORATIONS AND ASSOCIATIONS

Sec. 7.21. DEFINITIONS. In this subchapter:

(1) "Agent" means a director, officer, employee, or other person authorized to act in behalf of a corporation or association.

(2) "High managerial agent" means:

(A) a partner in a partnership;

(B) an officer of a corporation or association;

(C) an agent of a corporation or association who has duties of such responsibility that his conduct reasonably may be assumed to represent the policy of the corporation or association.

Sec. 7.22. CRIMINAL RESPONSIBILITY OF CORPORATION OR ASSOCIATION. (a) If conduct constituting an offense is performed by an agent acting in behalf of a corporation or association and within the scope of his office or employment, the corporation or association is criminally responsible for an offense defined:

(1) in this code where corporations and associations are made subject thereto;

(2) by law other than this code in which a legislative purpose to impose criminal responsibility on corporations or associations plainly appears; or

(3) by law other than this code for which strict liability is imposed, unless a legislative purpose not to impose criminal responsibility on corporations or associations plainly appears.

(b) A corporation or association is criminally responsible for a felony offense only if its commission was authorized, requested, commanded, performed, or recklessly tolerated by:

(1) a majority of the governing board acting in behalf of the corporation or association; or

(2) a high managerial agent acting in behalf of the corporation or association and within the scope of his office or employment.


Sec. 7.23. CRIMINAL RESPONSIBILITY OF PERSON FOR CONDUCT IN BEHALF OF CORPORATION OR ASSOCIATION. (a) An individual is criminally responsible for conduct that he performs in the name of or in behalf of a corporation or association to the same extent as if the conduct were performed in his own name or behalf.

(b) An agent having primary responsibility for the discharge of a duty to act imposed by law on a corporation or association is criminally responsible for omission to discharge the duty to the same extent as if the duty were imposed by law directly
on him.

(c) If an individual is convicted of conduct constituting an offense performed in the name of or on behalf of a corporation or association, he is subject to the sentence authorized by law for an individual convicted of the offense.


Sec. 7.24. DEFENSE TO CRIMINAL RESPONSIBILITY OF CORPORATION OR ASSOCIATION. It is an affirmative defense to prosecution of a corporation or association under Section 7.22(a)(1) or (a)(2) that the high managerial agent having supervisory responsibility over the subject matter of the offense employed due diligence to prevent its commission.

PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 8. GENERAL DEFENSES TO CRIMINAL RESPONSIBILITY

Sec. 8.01. INSANITY. (a) It is an affirmative defense to prosecution that, at the time of the conduct charged, the actor, as a result of severe mental disease or defect, did not know that his conduct was wrong.

(b) The term "mental disease or defect" does not include an abnormality manifested only by repeated criminal or otherwise antisocial conduct.


Sec. 8.02. MISTAKE OF FACT. (a) It is a defense to prosecution that the actor through mistake formed a reasonable belief about a matter of fact if his mistaken belief negated the kind of culpability required for commission of the offense.

(b) Although an actor's mistake of fact may constitute a defense to the offense charged, he may nevertheless be convicted of any lesser included offense of which he would be guilty if the facts were as he believed.


Sec. 8.03. MISTAKE OF LAW. (a) It is no defense to prosecution that the actor was ignorant of the provisions of any law after the law has taken effect.

(b) It is an affirmative defense to prosecution that the actor reasonably believed the conduct charged did not constitute a crime and that he acted in reasonable reliance upon:

(1) an official statement of the law contained in a written order or grant of permission by an administrative agency charged by law with responsibility for interpreting the law in
question; or

(2) a written interpretation of the law contained in
an opinion of a court of record or made by a public official charged
by law with responsibility for interpreting the law in question.

(c) Although an actor's mistake of law may constitute a
defense to the offense charged, he may nevertheless be convicted of
a lesser included offense of which he would be guilty if the law
were as he believed.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994.

Sec. 8.04. INTOXICATION. (a) Voluntary intoxication does
not constitute a defense to the commission of crime.

(b) Evidence of temporary insanity caused by intoxication
may be introduced by the actor in mitigation of the penalty attached
to the offense for which he is being tried.

(c) When temporary insanity is relied upon as a defense and
the evidence tends to show that such insanity was caused by
intoxication, the court shall charge the jury in accordance with
the provisions of this section.

(d) For purposes of this section "intoxication" means
disturbance of mental or physical capacity resulting from the
introduction of any substance into the body.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994.

Sec. 8.05. DURESS. (a) It is an affirmative defense to
prosecution that the actor engaged in the proscribed conduct
because he was compelled to do so by threat of imminent death or
serious bodily injury to himself or another.

(b) In a prosecution for an offense that does not constitute
a felony, it is an affirmative defense to prosecution that the actor
engaged in the proscribed conduct because he was compelled to do so
by force or threat of force.

(c) Compulsion within the meaning of this section exists
only if the force or threat of force would render a person of reasonable firmness incapable of resisting the pressure.

(d) The defense provided by this section is unavailable if the actor intentionally, knowingly, or recklessly placed himself in a situation in which it was probable that he would be subjected to compulsion.

(e) It is no defense that a person acted at the command or persuasion of his spouse, unless he acted under compulsion that would establish a defense under this section.


Sec. 8.06. ENTRAPMENT. (a) It is a defense to prosecution that the actor engaged in the conduct charged because he was induced to do so by a law enforcement agent using persuasion or other means likely to cause persons to commit the offense. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

(b) In this section "law enforcement agent" includes personnel of the state and local law enforcement agencies as well as of the United States and any person acting in accordance with instructions from such agents.


Sec. 8.07. AGE AFFECTING CRIMINAL RESPONSIBILITY. (a) A person may not be prosecuted for or convicted of any offense that the person committed when younger than 15 years of age except:

(1) perjury and aggravated perjury when it appears by proof that the person had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for conduct for which the person convicted may be sentenced to imprisonment or confinement in jail;
(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;
(4) a misdemeanor punishable by fine only;
(5) a violation of a penal ordinance of a political subdivision;
(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older; or
(7) a capital felony or an offense under Section 19.02 for which the person is transferred to the court under Section 54.02(j)(2)(A), Family Code.

(b) Unless the juvenile court waives jurisdiction under Section 54.02, Family Code, and certifies the individual for criminal prosecution or the juvenile court has previously waived jurisdiction under that section and certified the individual for criminal prosecution, a person may not be prosecuted for or convicted of any offense committed before reaching 17 years of age except an offense described by Subsections (a)(1)-(5).

(c) No person may, in any case, be punished by death for an offense committed while the person was younger than 18 years.

(d) Notwithstanding Subsection (a), a person may not be prosecuted for or convicted of an offense described by Subsection (a)(4) or (5) that the person committed when younger than 10 years of age.

(e) A person who is at least 10 years of age but younger than 15 years of age is presumed incapable of committing an offense described by Subsection (a)(4) or (5), other than an offense under a juvenile curfew ordinance or order. This presumption may be rebutted if the prosecution proves to the court by a preponderance of the evidence that the actor had sufficient capacity to understand that the conduct engaged in was wrong at the time the conduct was engaged in. The prosecution is not required to prove that the actor at the time of engaging in the conduct knew that the act was a criminal offense or knew the legal consequences of the offense.

Amended by:

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 45, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 311 (H.B. 558), Sec. 5, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 17, eff. September 1, 2013.

Sec. 8.08. CHILD WITH MENTAL ILLNESS, DISABILITY, OR LACK OF CAPACITY. (a) On motion by the state, the defendant, or a person standing in parental relation to the defendant, or on the court's own motion, a court with jurisdiction of an offense described by Section 8.07(a)(4) or (5) shall determine whether probable cause exists to believe that a child, including a child with a mental illness or developmental disability:

(1) lacks the capacity to understand the proceedings in criminal court or to assist in the child's own defense and is unfit to proceed; or

(2) lacks substantial capacity either to appreciate the wrongfulness of the child's own conduct or to conform the child's conduct to the requirement of the law.

(b) If the court determines that probable cause exists for a finding under Subsection (a), after providing notice to the state,
the court may dismiss the complaint.

(c) A dismissal of a complaint under Subsection (b) may be appealed as provided by Article 44.01, Code of Criminal Procedure.

(d) In this section, "child" has the meaning assigned by Article 45.058(h), Code of Criminal Procedure.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 18, eff. September 1, 2013.
PENAL CODE

TITLE 2. GENERAL PRINCIPLES OF CRIMINAL RESPONSIBILITY

CHAPTER 9. JUSTIFICATION EXCLUDING CRIMINAL RESPONSIBILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9.01. DEFINITIONS. In this chapter:

(1) "Custody" has the meaning assigned by Section 38.01.

(2) "Escape" has the meaning assigned by Section 38.01.

(3) "Deadly force" means force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury.

(4) "Habitation" has the meaning assigned by Section 30.01.

(5) "Vehicle" has the meaning assigned by Section 30.01.


Acts 2007, 80th Leg., R.S., Ch. 1 (S.B. 378), Sec. 1, eff. September 1, 2007.

Sec. 9.02. JUSTIFICATION AS A DEFENSE. It is a defense to prosecution that the conduct in question is justified under this chapter.


Sec. 9.03. CONFINEMENT AS JUSTIFIABLE FORCE. Confinement is justified when force is justified by this chapter if the actor takes reasonable measures to terminate the confinement as soon as he knows he safely can unless the person confined has been arrested for an offense.

Sec. 9.04. THREATS AS JUSTIFIABLE FORCE. The threat of force is justified when the use of force is justified by this chapter. For purposes of this section, a threat to cause death or serious bodily injury by the production of a weapon or otherwise, as long as the actor's purpose is limited to creating an apprehension that he will use deadly force if necessary, does not constitute the use of deadly force.

Sec. 9.05. RECKLESS INJURY OF INNOCENT THIRD PERSON. Even though an actor is justified under this chapter in threatening or using force or deadly force against another, if in doing so he also recklessly injures or kills an innocent third person, the justification afforded by this chapter is unavailable in a prosecution for the reckless injury or killing of the innocent third person.

Sec. 9.06. CIVIL REMEDIES UNAFFECTED. The fact that conduct is justified under this chapter does not abolish or impair any remedy for the conduct that is available in a civil suit.

SUBCHAPTER B. JUSTIFICATION GENERALLY

Sec. 9.21. PUBLIC DUTY. (a) Except as qualified by Subsections (b) and (c), conduct is justified if the actor
reasonably believes the conduct is required or authorized by law, by the judgment or order of a competent court or other governmental tribunal, or in the execution of legal process.

(b) The other sections of this chapter control when force is used against a person to protect persons (Subchapter C), to protect property (Subchapter D), for law enforcement (Subchapter E), or by virtue of a special relationship (Subchapter F).

(c) The use of deadly force is not justified under this section unless the actor reasonably believes the deadly force is specifically required by statute or unless it occurs in the lawful conduct of war. If deadly force is so justified, there is no duty to retreat before using it.

(d) The justification afforded by this section is available if the actor reasonably believes:

(1) the court or governmental tribunal has jurisdiction or the process is lawful, even though the court or governmental tribunal lacks jurisdiction or the process is unlawful; or

(2) his conduct is required or authorized to assist a public servant in the performance of his official duty, even though the servant exceeds his lawful authority.


Sec. 9.22. NECESSITY. Conduct is justified if:

(1) the actor reasonably believes the conduct is immediately necessary to avoid imminent harm;

(2) the desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law proscribing the conduct; and

(3) a legislative purpose to exclude the justification claimed for the conduct does not otherwise plainly appear.

SUBCHAPTER C. PROTECTION OF PERSONS

Sec. 9.31. SELF-DEFENSE. (a) Except as provided in Subsection (b), a person is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to protect the actor against the other's use or attempted use of unlawful force. The actor's belief that the force was immediately necessary as described by this subsection is presumed to be reasonable if the actor:

(1) knew or had reason to believe that the person against whom the force was used:

(A) unlawfully and with force entered, or was attempting to enter unlawfully and with force, the actor's occupied habitation, vehicle, or place of business or employment;

(B) unlawfully and with force removed, or was attempting to remove unlawfully and with force, the actor from the actor's habitation, vehicle, or place of business or employment; or

(C) was committing or attempting to commit aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery;

(2) did not provoke the person against whom the force was used; and

(3) was not otherwise engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic at the time the force was used.

(b) The use of force against another is not justified:

(1) in response to verbal provocation alone;

(2) to resist an arrest or search that the actor knows is being made by a peace officer, or by a person acting in a peace officer's presence and at his direction, even though the arrest or search is unlawful, unless the resistance is justified under Subsection (c);

(3) if the actor consented to the exact force used or attempted by the other;

(4) if the actor provoked the other's use or attempted use of unlawful force, unless:
(A) the actor abandons the encounter, or clearly communicates to the other his intent to do so reasonably believing he cannot safely abandon the encounter; and

(B) the other nevertheless continues or attempts to use unlawful force against the actor; or

(5) if the actor sought an explanation from or discussion with the other person concerning the actor's differences with the other person while the actor was:

(A) carrying a weapon in violation of Section 46.02; or

(B) possessing or transporting a weapon in violation of Section 46.05.

(c) The use of force to resist an arrest or search is justified:

(1) if, before the actor offers any resistance, the peace officer (or person acting at his direction) uses or attempts to use greater force than necessary to make the arrest or search; and

(2) when and to the degree the actor reasonably believes the force is immediately necessary to protect himself against the peace officer's (or other person's) use or attempted use of greater force than necessary.

(d) The use of deadly force is not justified under this subchapter except as provided in Sections 9.32, 9.33, and 9.34.

(e) A person who has a right to be present at the location where the force is used, who has not provoked the person against whom the force is used, and who is not engaged in criminal activity at the time the force is used is not required to retreat before using force as described by this section.

(f) For purposes of Subsection (a), in determining whether an actor described by Subsection (e) reasonably believed that the use of force was necessary, a finder of fact may not consider whether the actor failed to retreat.

Acts 2007, 80th Leg., R.S., Ch. 1 (S.B. 378), Sec. 2, eff. September 1, 2007.

Sec. 9.32. DEADLY FORCE IN DEFENSE OF PERSON. (a) A person is justified in using deadly force against another:

(1) if the actor would be justified in using force against the other under Section 9.31; and

(2) when and to the degree the actor reasonably believes the deadly force is immediately necessary:

(A) to protect the actor against the other's use or attempted use of unlawful deadly force; or

(B) to prevent the other's imminent commission of aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery, or aggravated robbery.

(b) The actor's belief under Subsection (a)(2) that the deadly force was immediately necessary as described by that subdivision is presumed to be reasonable if the actor:

(1) knew or had reason to believe that the person against whom the deadly force was used:

(A) unlawfully and with force entered, or was attempting to enter unlawfully and with force, the actor's occupied habitation, vehicle, or place of business or employment;

(B) unlawfully and with force removed, or was attempting to remove unlawfully and with force, the actor from the actor's habitation, vehicle, or place of business or employment; or

(C) was committing or attempting to commit an offense described by Subsection (a)(2)(B);

(2) did not provoke the person against whom the force was used; and

(3) was not otherwise engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic at the time the force was used.

(c) A person who has a right to be present at the location where the deadly force is used, who has not provoked the person against whom the deadly force is used, and who is not engaged in criminal activity at the time the deadly force is used is not required to retreat before using deadly force as described by this
section.

(d) For purposes of Subsection (a)(2), in determining whether an actor described by Subsection (c) reasonably believed that the use of deadly force was necessary, a finder of fact may not consider whether the actor failed to retreat.


Acts 2007, 80th Leg., R.S., Ch. 1 (S.B. 378), Sec. 3, eff. September 1, 2007.

Sec. 9.33. DEFENSE OF THIRD PERSON. A person is justified in using force or deadly force against another to protect a third person if:

(1) under the circumstances as the actor reasonably believes them to be, the actor would be justified under Section 9.31 or 9.32 in using force or deadly force to protect himself against the unlawful force or unlawful deadly force he reasonably believes to be threatening the third person he seeks to protect; and

(2) the actor reasonably believes that his intervention is immediately necessary to protect the third person.


Sec. 9.34. PROTECTION OF LIFE OR HEALTH. (a) A person is justified in using force, but not deadly force, against another when and to the degree he reasonably believes the force is immediately necessary to prevent the other from committing suicide or inflicting serious bodily injury to himself.

(b) A person is justified in using both force and deadly force against another when and to the degree he reasonably believes the force or deadly force is immediately necessary to preserve the other's life in an emergency.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

SUBCHAPTER D. PROTECTION OF PROPERTY

Sec. 9.41. PROTECTION OF ONE'S OWN PROPERTY. (a) A person in lawful possession of land or tangible, movable property is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to prevent or terminate the other's trespass on the land or unlawful interference with the property.

(b) A person unlawfully dispossessed of land or tangible, movable property by another is justified in using force against the other when and to the degree the actor reasonably believes the force is immediately necessary to reenter the land or recover the property if the actor uses the force immediately or in fresh pursuit after the dispossessory:

(1) the actor reasonably believes the other had no claim of right when he dispossessed the actor; or

(2) the other accomplished the dispossessory by using force, threat, or fraud against the actor.


Sec. 9.42. DEADLY FORCE TO PROTECT PROPERTY. A person is justified in using deadly force against another to protect land or tangible, movable property:

(1) if he would be justified in using force against the other under Section 9.41; and

(2) when and to the degree he reasonably believes the deadly force is immediately necessary:

(A) to prevent the other's imminent commission of arson, burglary, robbery, aggravated robbery, theft during the nighttime, or criminal mischief during the nighttime; or

(B) to prevent the other who is fleeing immediately after committing burglary, robbery, aggravated
robbery, or theft during the nighttime from escaping with the property; and

(3) he reasonably believes that:

(A) the land or property cannot be protected or recovered by any other means; or

(B) the use of force other than deadly force to protect or recover the land or property would expose the actor or another to a substantial risk of death or serious bodily injury.


Sec. 9.43. PROTECTION OF THIRD PERSON'S PROPERTY. A person is justified in using force or deadly force against another to protect land or tangible, movable property of a third person if, under the circumstances as he reasonably believes them to be, the actor would be justified under Section 9.41 or 9.42 in using force or deadly force to protect his own land or property and:

(1) the actor reasonably believes the unlawful interference constitutes attempted or consummated theft of or criminal mischief to the tangible, movable property; or

(2) the actor reasonably believes that:

(A) the third person has requested his protection of the land or property;

(B) he has a legal duty to protect the third person's land or property; or

(C) the third person whose land or property he uses force or deadly force to protect is the actor's spouse, parent, or child, resides with the actor, or is under the actor's care.


Sec. 9.44. USE OF DEVICE TO PROTECT PROPERTY. The justification afforded by Sections 9.41 and 9.43 applies to the use of a device to protect land or tangible, movable property if:

(1) the device is not designed to cause, or known by
the actor to create a substantial risk of causing, death or serious bodily injury; and

(2) use of the device is reasonable under all the circumstances as the actor reasonably believes them to be when he installs the device.


SUBCHAPTER E. LAW ENFORCEMENT

Sec. 9.51. ARREST AND SEARCH. (a) A peace officer, or a person acting in a peace officer's presence and at his direction, is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to make or assist in making an arrest or search, or to prevent or assist in preventing escape after arrest, if:

(1) the actor reasonably believes the arrest or search is lawful or, if the arrest or search is made under a warrant, he reasonably believes the warrant is valid; and

(2) before using force, the actor manifests his purpose to arrest or search and identifies himself as a peace officer or as one acting at a peace officer's direction, unless he reasonably believes his purpose and identity are already known by or cannot reasonably be made known to the person to be arrested.

(b) A person other than a peace officer (or one acting at his direction) is justified in using force against another when and to the degree the actor reasonably believes the force is immediately necessary to make or assist in making a lawful arrest, or to prevent or assist in preventing escape after lawful arrest if, before using force, the actor manifests his purpose to and the reason for the arrest or reasonably believes his purpose and the reason are already known by or cannot reasonably be made known to the person to be arrested.

(c) A peace officer is justified in using deadly force against another when and to the degree the peace officer reasonably
believes the deadly force is immediately necessary to make an arrest, or to prevent escape after arrest, if the use of force would have been justified under Subsection (a) and:

(1) the actor reasonably believes the conduct for which arrest is authorized included the use or attempted use of deadly force; or

(2) the actor reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to the actor or another if the arrest is delayed.

(d) A person other than a peace officer acting in a peace officer's presence and at his direction is justified in using deadly force against another when and to the degree the person reasonably believes the deadly force is immediately necessary to make a lawful arrest, or to prevent escape after a lawful arrest, if the use of force would have been justified under Subsection (b) and:

(1) the actor reasonably believes the felony or offense against the public peace for which arrest is authorized included the use or attempted use of deadly force; or

(2) the actor reasonably believes there is a substantial risk that the person to be arrested will cause death or serious bodily injury to another if the arrest is delayed.

(e) There is no duty to retreat before using deadly force justified by Subsection (c) or (d).

(f) Nothing in this section relating to the actor's manifestation of purpose or identity shall be construed as conflicting with any other law relating to the issuance, service, and execution of an arrest or search warrant either under the laws of this state or the United States.

(g) Deadly force may only be used under the circumstances enumerated in Subsections (c) and (d).


Sec. 9.52. PREVENTION OF ESCAPE FROM CUSTODY. The use of force to prevent the escape of an arrested person from custody is
justifiable when the force could have been employed to effect the arrest under which the person is in custody, except that a guard employed by a correctional facility or a peace officer is justified in using any force, including deadly force, that he reasonably believes to be immediately necessary to prevent the escape of a person from the correctional facility.

Sec. 9.53. MAINTAINING SECURITY IN CORRECTIONAL FACILITY. An officer or employee of a correctional facility is justified in using force against a person in custody when and to the degree the officer or employee reasonably believes the force is necessary to maintain the security of the correctional facility, the safety or security of other persons in custody or employed by the correctional facility, or his own safety or security.

SUBCHAPTER F. SPECIAL RELATIONSHIPS

Sec. 9.61. PARENT-CHILD. (a) The use of force, but not deadly force, against a child younger than 18 years is justified:
(1) if the actor is the child's parent or stepparent or is acting in loco parentis to the child; and
(2) when and to the degree the actor reasonably believes the force is necessary to discipline the child or to safeguard or promote his welfare.

(b). For purposes of this section, "in loco parentis" includes grandparent and guardian, any person acting by, through, or under the direction of a court with jurisdiction over the child, and anyone who has express or implied consent of the parent or parents.
Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994.

Sec. 9.62. EDUCATOR-STUDENT. The use of force, but not deadly force, against a person is justified:

(1) if the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and

(2) when and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.


Sec. 9.63. GUARDIAN-INCOMPETENT. The use of force, but not deadly force, against a mental incompetent is justified:

(1) if the actor is the incompetent's guardian or someone similarly responsible for the general care and supervision of the incompetent; and

(2) when and to the degree the actor reasonably believes the force is necessary:

(A) to safeguard and promote the incompetent's welfare; or

(B) if the incompetent is in an institution for his care and custody, to maintain discipline in the institution.

PENAL CODE
TITLE 3. PUNISHMENTS
CHAPTER 12. PUNISHMENTS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 12.01. PUNISHMENT IN ACCORDANCE WITH CODE. (a) A person adjudged guilty of an offense under this code shall be punished in accordance with this chapter and the Code of Criminal Procedure.

(b) Penal laws enacted after the effective date of this code shall be classified for punishment purposes in accordance with this chapter.

(c) This chapter does not deprive a court of authority conferred by law to forfeit property, dissolve a corporation, suspend or cancel a license or permit, remove a person from office, cite for contempt, or impose any other civil penalty. The civil penalty may be included in the sentence.

Sec. 12.02. CLASSIFICATION OF OFFENSES. Offenses are designated as felonies or misdemeanors.

Sec. 12.03. CLASSIFICATION OF MISDEMEANORS. (a) Misdemeanors are classified according to the relative seriousness of the offense into three categories:

(1) Class A misdemeanors;
(2) Class B misdemeanors;
(3) Class C misdemeanors.

(b) An offense designated a misdemeanor in this code without specification as to punishment or category is a Class C misdemeanor.
(c) Conviction of a Class C misdemeanor does not impose any legal disability or disadvantage.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 12.04. CLASSIFICATION OF FELONIES. (a) Felonies are classified according to the relative seriousness of the offense into five categories:

(1) capital felonies;
(2) felonies of the first degree;
(3) felonies of the second degree;
(4) felonies of the third degree; and
(5) state jail felonies.

(b) An offense designated a felony in this code without specification as to category is a state jail felony.

SUBCHAPTER B. ORDINARY MISDEMEANOR PUNISHMENTS

Sec. 12.21. CLASS A MISDEMEANOR. An individual adjudged guilty of a Class A misdemeanor shall be punished by:

(1) a fine not to exceed $4,000;
(2) confinement in jail for a term not to exceed one year; or
(3) both such fine and confinement.

Sec. 12.22. CLASS B MISDEMEANOR. An individual adjudged guilty of a Class B misdemeanor shall be punished by:

(1) a fine not to exceed $2,000;
(2) confinement in jail for a term not to exceed 180
days; or

(3) both such fine and confinement.


Sec. 12.23. CLASS C MISDEMEANOR. An individual adjudged guilty of a Class C misdemeanor shall be punished by a fine not to exceed $500.


SUBCHAPTER C. ORDINARY FELONY PUNISHMENTS

Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the Texas Department of Criminal Justice for:

(1) life, if the individual committed the offense when younger than 18 years of age; or

(2) life without parole, if the individual committed the offense when 18 years of age or older.

(b) In a capital felony trial in which the state seeks the death penalty, prospective jurors shall be informed that a sentence of life imprisonment without parole or death is mandatory on conviction of a capital felony. In a capital felony trial in which the state does not seek the death penalty, prospective jurors shall be informed that the state is not seeking the death penalty and that:

(1) a sentence of life imprisonment is mandatory on conviction of the capital felony, if the individual committed the offense when younger than 18 years of age; or

(2) a sentence of life imprisonment without parole is
mandatory on conviction of the capital felony, if the individual committed the offense when 18 years of age or older.


Amended by:

Acts 2005, 79th Leg., Ch. 787 (S.B. 60), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.145, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 765 (S.B. 839), Sec. 1, eff. September 1, 2009.

Acts 2013, 83rd Leg., 2nd C.S., Ch. 2, Sec. 1, eff. July 22, 2013.

Sec. 12.32. FIRST DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the first degree shall be punished by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 5 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the first degree may be punished by a fine not to exceed $10,000.


Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.146, eff. September 1, 2009.

Sec. 12.33. SECOND DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the second degree shall be punished by imprisonment in the Texas Department of Criminal
Justice for any term of not more than 20 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the second degree may be punished by a fine not to exceed $10,000.


Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.147, eff. September 1, 2009.

Sec. 12.34. THIRD DEGREE FELONY PUNISHMENT. (a) An individual adjudged guilty of a felony of the third degree shall be punished by imprisonment in the Texas Department of Criminal Justice for any term of not more than 10 years or less than 2 years.

(b) In addition to imprisonment, an individual adjudged guilty of a felony of the third degree may be punished by a fine not to exceed $10,000.


Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.148, eff. September 1, 2009.

Sec. 12.35. STATE JAIL FELONY PUNISHMENT. (a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed $10,000.

(c) An individual adjudged guilty of a state jail felony
shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 20A.03 or 21.02 or listed in Article 42A.054(a), Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), Code of Criminal Procedure.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.48, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 13, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.81, eff. January 1, 2017.

SUBCHAPTER D. EXCEPTIONAL SENTENCES

Sec. 12.41. CLASSIFICATION OF OFFENSES OUTSIDE THIS CODE. For purposes of this subchapter, any conviction not obtained from a prosecution under this code shall be classified as follows:

(1) "felony of the third degree" if imprisonment in the Texas Department of Criminal Justice or another penitentiary is affixed to the offense as a possible punishment;

(2) "Class B misdemeanor" if the offense is not a felony and confinement in a jail is affixed to the offense as a possible punishment;

(3) "Class C misdemeanor" if the offense is punishable
by fine only.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.149, eff. September 1, 2009.

Sec. 12.42. PENALTIES FOR REPEAT AND HABITUAL FELONY OFFENDERS ON TRIAL FOR FIRST, SECOND, OR THIRD DEGREE FELONY. (a) Except as provided by Subsection (c)(2), if it is shown on the trial of a felony of the third degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the second degree.

(b) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony of the second degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the first degree.

(c)(1) If it is shown on the trial of a felony of the first degree that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 15 years. In addition to imprisonment, an individual may be punished by a fine not to exceed $10,000.

(2) Notwithstanding Subdivision (1), a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life if:

(A) the defendant is convicted of an offense:
   (i) under Section 20A.02(a)(7) or (8), 21.11(a)(1), 22.021, or 22.011, Penal Code;
   (ii) under Section 20.04(a)(4), Penal Code,
if the defendant committed the offense with the intent to violate or
abuse the victim sexually; or

(iii) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (i) or (ii) or a felony under Section 21.11, Penal Code; and

(B) the defendant has been previously convicted of an offense:

(i) under Section 43.25 or 43.26, Penal Code, or an offense under Section 43.23, Penal Code, punishable under Subsection (h) of that section;

(ii) under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(iii) under Section 20.04(a)(4), Penal Code, if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(iv) under Section 30.02, Penal Code, punishable under Subsection (d) of that section, if the defendant committed the offense with the intent to commit a felony described by Subparagraph (ii) or (iii); or

(v) under the laws of another state containing elements that are substantially similar to the elements of an offense listed in Subparagraph (i), (ii), (iii), or (iv).

(3) Notwithstanding Subdivision (1) or (2), a defendant shall be punished for a capital felony if it is shown on the trial of an offense under Section 22.021 otherwise punishable under Subsection (f) of that section that the defendant has previously been finally convicted of:

(A) an offense under Section 22.021 that was committed against a victim described by Section 22.021(f)(1) or was committed against a victim described by Section 22.021(f)(2) and in a manner described by Section 22.021(a)(2)(A); or

(B) an offense that was committed under the laws of another state that:

(i) contains elements that are substantially similar to the elements of an offense under Section 22.021; and
(ii) was committed against a victim described by Section 22.021(f)(1) or was committed against a victim described by Section 22.021(f)(2) and in a manner substantially similar to a manner described by Section 22.021(a)(2)(A).

(4) Notwithstanding Subdivision (1) or (2), and except as provided by Subdivision (3) for the trial of an offense under Section 22.021 as described by that subdivision, a defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life without parole if it is shown on the trial of an offense under Section 20A.03 or of a sexually violent offense, committed by the defendant on or after the defendant's 18th birthday, that the defendant has previously been finally convicted of:

(A) an offense under Section 20A.03 or of a sexually violent offense; or

(B) an offense that was committed under the laws of another state and that contains elements that are substantially similar to the elements of an offense under Section 20A.03 or of a sexually violent offense.

(5) A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under Subdivision (2).

(d) Except as provided by Subsection (c)(2) or (c)(4), if it is shown on the trial of a felony offense other than a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felony offenses, and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years. A previous conviction for a state jail felony punishable under Section 12.35(a) may not be used for enhancement purposes under this subsection.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 834, Sec. 6, eff. September 1, 2011.

(f) For the purposes of Subsections (a), (b), and (c)(1), an adjudication by a juvenile court under Section 54.03, Family Code,
that a child engaged in delinquent conduct on or after January 1, 1996, constituting a felony offense for which the child is committed to the Texas Juvenile Justice Department under Section 54.04(d)(2), (d)(3), or (m), Family Code, or Section 54.05(f), Family Code, or to a post-adjudication secure correctional facility under Section 54.04011, Family Code, is a final felony conviction.

(g) For the purposes of Subsection (c)(2):

(1) a defendant has been previously convicted of an offense listed under Subsection (c)(2)(B) if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed under Subsection (c)(2)(B) is a conviction of an offense listed under Subsection (c)(2)(B).

(h) In this section, "sexually violent offense" means an offense:

(1) described by Article 62.001(6), Code of Criminal Procedure; and

(2) for which an affirmative finding has been entered under Article 42.015(b) or 42A.105(a), Code of Criminal Procedure, for an offense other than an offense under Section 21.02 or 22.021. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1983, 68th Leg., p. 1750, ch. 339, Sec. 1, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 582, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 250, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 262, Sec. 78, eff. Jan. 1, 1996; Acts 1995, 74th Leg., ch. 318, Sec. 1, eff. Jan. 1, 1996; Acts 1997, 75th Leg., ch. 665, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 667, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 15.01, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 283, Sec. 53, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1005, Sec. 2, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 340 (S.B. 75), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 340 (S.B. 75), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 340 (S.B. 75), Sec. 3, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 340 (S.B. 75), Sec. 4, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.14, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.15, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.150, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.02, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 122 (H.B. 3000), Sec. 14, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 4, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 6, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1119 (H.B. 3), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1119 (H.B. 3), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 16.003, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 663 (H.B. 1302), Sec. 7, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 663 (H.B. 1302), Sec. 8, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 663 (H.B. 1302), Sec. 9, eff. September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 1323 (S.B. 511), Sec. 11, eff. December 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.82, eff. January 1, 2017.

Sec. 12.425. PENALTIES FOR REPEAT AND HABITUAL FELONY OFFENDERS ON TRIAL FOR STATE JAIL FELONY. (a) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two state jail felonies punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the third degree.

(b) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) that the defendant has previously been finally convicted of two felonies other than a state jail felony punishable under Section 12.35(a), and the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, on conviction the defendant shall be punished for a felony of the second degree.

(c) If it is shown on the trial of a state jail felony for which punishment may be enhanced under Section 12.35(c) that the defendant has previously been finally convicted of a felony other than a state jail felony punishable under Section 12.35(a), on conviction the defendant shall be punished for a felony of the second degree.
Added by Acts 2011, 82nd Leg., R.S., Ch. 834 (H.B. 3384), Sec. 5, eff. September 1, 2011.

Sec. 12.43. PENALTIES FOR REPEAT AND HABITUAL MISDEMEANOR OFFENDERS. (a) If it is shown on the trial of a Class A misdemeanor that the defendant has been before convicted of a Class A misdemeanor or any degree of felony, on conviction he shall be punished by:
(1) a fine not to exceed $4,000;
(2) confinement in jail for any term of not more than one year or less than 90 days; or
(3) both such fine and confinement.
(b) If it is shown on the trial of a Class B misdemeanor that the defendant has been before convicted of a Class A or Class B misdemeanor or any degree of felony, on conviction he shall be punished by:
(1) a fine not to exceed $2,000;
(2) confinement in jail for any term of not more than 180 days or less than 30 days; or
(3) both such fine and confinement.
(c) If it is shown on the trial of an offense punishable as a Class C misdemeanor under Section 42.01 or 49.02 that the defendant has been before convicted under either of those sections three times or three times for any combination of those offenses and each prior offense was committed in the 24 months preceding the date of commission of the instant offense, the defendant shall be punished by:
(1) a fine not to exceed $2,000;
(2) confinement in jail for a term not to exceed 180 days; or
(3) both such fine and confinement.
(d) If the punishment scheme for an offense contains a specific enhancement provision increasing punishment for a defendant who has previously been convicted of the offense, the specific enhancement provision controls over this section.

Sec. 12.44. REDUCTION OF STATE JAIL FELONY PUNISHMENT TO MISDEMEANOR PUNISHMENT. (a) A court may punish a defendant who is convicted of a state jail felony by imposing the confinement permissible as punishment for a Class A misdemeanor if, after considering the gravity and circumstances of the felony committed
and the history, character, and rehabilitative needs of the defendant, the court finds that such punishment would best serve the ends of justice.

(b) At the request of the prosecuting attorney, the court may authorize the prosecuting attorney to prosecute a state jail felony as a Class A misdemeanor.


Amended by:

Acts 2005, 79th Leg., Ch. 1276 (H.B. 2296), Sec. 1, eff. September 1, 2005.

Sec. 12.45. ADMISSION OF UNADJUDICATED OFFENSE. (a) A person may, with the consent of the attorney for the state, admit during the sentencing hearing his guilt of one or more unadjudicated offenses and request the court to take each into account in determining sentence for the offense or offenses of which he stands adjudged guilty.

(b) Before a court may take into account an admitted offense over which exclusive venue lies in another county or district, the court must obtain permission from the prosecuting attorney with jurisdiction over the offense.

(c) If a court lawfully takes into account an admitted offense, prosecution is barred for that offense.


Sec. 12.46. USE OF PRIOR CONVICTIONS. The use of a conviction for enhancement purposes shall not preclude the subsequent use of such conviction for enhancement purposes.

Sec. 12.47. PENALTY IF OFFENSE COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) If an affirmative finding under Article 42.014, Code of Criminal Procedure, is made in the trial of an offense other than a first degree felony or a Class A misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. This section does not apply to the trial of an offense of injury to a disabled individual under Sec. 22.04, if the affirmative finding in the case under Article 42.014, Code of Criminal Procedure, shows that the defendant intentionally selected the victim because the victim was disabled.

(b) The attorney general, if requested to do so by a prosecuting attorney, may assist the prosecuting attorney in the investigation or prosecution of an offense committed because of bias or prejudice. The attorney general shall designate one individual in the division of the attorney general's office that assists in the prosecution of criminal cases to coordinate responses to requests made under this subsection.


Sec. 12.48. CERTAIN OFFENSES RESULTING IN LOSS TO NURSING AND CONVALESCENT HOMES. If it is shown on the trial of an offense under Chapter 31 or 32 that, as a result of a loss incurred because of the conduct charged, a trustee was appointed and emergency assistance funds, other than funds used to pay the expenses of the trustee, were used for a nursing or convalescent home under Subchapter D, Chapter 242, Health and Safety Code, the punishment for the offense is increased to the punishment prescribed for the next higher category of offense except that a felony of the first degree is punished as a felony of the first degree.

Added by Acts 1999, 76th Leg., ch. 439, Sec. 4, eff. Sept. 1, 1999.

Sec. 12.49. PENALTY IF CONTROLLED SUBSTANCE USED TO COMMIT
OFFENSE. If the court makes an affirmative finding under Article 42.012, Code of Criminal Procedure, in the punishment phase of the trial of an offense under Chapter 29, Chapter 31, or Title 5, other than a first degree felony or a Class A misdemeanor, the punishment for the offense is increased to the punishment prescribed for the next highest category of offense. If the offense is a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days.


Sec. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA OR EVACUATED AREA. (a) Subject to Subsection (c), the punishment for an offense described by Subsection (b) is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that the offense was committed in an area that was, at the time of the offense:

(1) subject to a declaration of a state of disaster made by:

(A) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);

(B) the governor under Section 418.014, Government Code; or

(C) the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code; or

(2) subject to an emergency evacuation order.

(b) The increase in punishment authorized by this section applies only to an offense under:

(1) Section 22.01;

(2) Section 29.02;

(3) Section 30.02; and

(4) Section 31.03.

(c) If an offense listed under Subsection (b)(1) or (4) is
punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. If an offense listed under Subsection (b)(3) or (4) is punishable as a felony of the first degree, the punishment for that offense may not be increased under this section.

(d) It is a defense to a charge under Subsection (b)(4) that the conduct in question meets the elements of necessity outlined in Section 9.22.

(e) For purposes of this section, "emergency evacuation order" means an official statement issued by the governing body of this state or a political subdivision of this state to recommend or require the evacuation of all or part of the population of an area stricken or threatened with a disaster.

Added by Acts 2009, 81st Leg., R.S., Ch. 731 (S.B. 359), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. CORPORATIONS AND ASSOCIATIONS

Sec. 12.51. AUTHORIZED PUNISHMENTS FOR CORPORATIONS AND ASSOCIATIONS. (a) If a corporation or association is adjudged guilty of an offense that provides a penalty consisting of a fine only, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed the fine provided by the offense.

(b) If a corporation or association is adjudged guilty of an offense that provides a penalty including imprisonment, or that provides no specific penalty, a court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed:

(1) $20,000 if the offense is a felony of any category;

(2) $10,000 if the offense is a Class A or Class B misdemeanor;

(3) $2,000 if the offense is a Class C misdemeanor; or

(4) $50,000 if, as a result of an offense classified as a felony or Class A misdemeanor, an individual suffers serious bodily injury or death.

(c) In lieu of the fines authorized by Subsections (a),
(b)(1), (b)(2), and (b)(4), if a court finds that the corporation or association gained money or property or caused personal injury or death, property damage, or other loss through the commission of a felony or Class A or Class B misdemeanor, the court may sentence the corporation or association to pay a fine in an amount fixed by the court, not to exceed double the amount gained or caused by the corporation or association to be lost or damaged, whichever is greater.

(d) In addition to any sentence that may be imposed by this section, a corporation or association that has been adjudged guilty of an offense may be ordered by the court to give notice of the conviction to any person the court deems appropriate.

(e) On conviction of a corporation or association, the court shall notify the attorney general of that fact.

Sec. 15.01. CRIMINAL ATTEMPT. (a) A person commits an offense if, with specific intent to commit an offense, he does an act amounting to more than mere preparation that tends but fails to effect the commission of the offense intended.

(b) If a person attempts an offense that may be aggravated, his conduct constitutes an attempt to commit the aggravated offense if an element that aggravates the offense accompanies the attempt.

(c) It is no defense to prosecution for criminal attempt that the offense attempted was actually committed.

(d) An offense under this section is one category lower than the offense attempted, and if the offense attempted is a state jail felony, the offense is a Class A misdemeanor.


Sec. 15.02. CRIMINAL CONSPIRACY. (a) A person commits criminal conspiracy if, with intent that a felony be committed:

(1) he agrees with one or more persons that they or one or more of them engage in conduct that would constitute the offense; and

(2) he or one or more of them performs an overt act in pursuance of the agreement.

(b) An agreement constituting a conspiracy may be inferred from acts of the parties.

(c) It is no defense to prosecution for criminal conspiracy that:

(1) one or more of the coconspirators is not criminally responsible for the object offense;

(2) one or more of the coconspirators has been acquitted, so long as two or more coconspirators have not been acquitted;
(3) one or more of the coconspirators has not been prosecuted or convicted, has been convicted of a different offense, or is immune from prosecution;

(4) the actor belongs to a class of persons that by definition of the object offense is legally incapable of committing the object offense in an individual capacity; or

(5) the object offense was actually committed.

(d) An offense under this section is one category lower than the most serious felony that is the object of the conspiracy, and if the most serious felony that is the object of the conspiracy is a state jail felony, the offense is a Class A misdemeanor.


Sec. 15.03. CRIMINAL SOLICITATION. (a) A person commits an offense if, with intent that a capital felony or felony of the first degree be committed, he requests, commands, or attempts to induce another to engage in specific conduct that, under the circumstances surrounding his conduct as the actor believes them to be, would constitute the felony or make the other a party to its commission.

(b) A person may not be convicted under this section on the uncorroborated testimony of the person allegedly solicited and unless the solicitation is made under circumstances strongly corroborative of both the solicitation itself and the actor's intent that the other person act on the solicitation.

(c) It is no defense to prosecution under this section that:

(1) the person solicited is not criminally responsible for the felony solicited;

(2) the person solicited has been acquitted, has not been prosecuted or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution;

(3) the actor belongs to a class of persons that by definition of the felony solicited is legally incapable of committing the offense in an individual capacity; or

(4) the felony solicited was actually committed.
(d) An offense under this section is:

(1) a felony of the first degree if the offense solicited is a capital offense; or

(2) a felony of the second degree if the offense solicited is a felony of the first degree.


Sec. 15.031. CRIMINAL SOLICITATION OF A MINOR. (a) A person commits an offense if, with intent that an offense listed by Article 42A.054(a), Code of Criminal Procedure, be committed, the person requests, commands, or attempts to induce a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense listed by Article 42A.054(a) or make the minor a party to the commission of an offense listed by Article 42A.054(a).

(b) A person commits an offense if, with intent that an offense under Section 20A.02(a)(7) or (8), 21.02, 21.11, 22.011, 22.021, 43.02, 43.05(a)(2), or 43.25 be committed, the person by any means requests, commands, or attempts to induce a minor or another whom the person believes to be a minor to engage in specific conduct that, under the circumstances surrounding the actor's conduct as the actor believes them to be, would constitute an offense under one of those sections or would make the minor or other believed by the person to be a minor a party to the commission of an offense under one of those sections.

(c) A person may not be convicted under this section on the uncorroborated testimony of the minor allegedly solicited unless the solicitation is made under circumstances strongly corroborative of both the solicitation itself and the actor's intent that the minor act on the solicitation.

(d) It is no defense to prosecution under this section that:

(1) the minor solicited is not criminally responsible for the offense solicited;

(2) the minor solicited has been acquitted, has not been prosecuted or convicted, has been convicted of a different
offense or of a different type or class of offense, or is immune from prosecution;

(3) the actor belongs to a class of persons that by definition of the offense solicited is legally incapable of committing the offense in an individual capacity; or

(4) the offense solicited was actually committed.

(e) An offense under this section is one category lower than the solicited offense, except that an offense under this section is the same category as the solicited offense if it is shown on the trial of the offense that the actor:

(1) was at the time of the offense 17 years of age or older and a member of a criminal street gang, as defined by Section 71.01; and

(2) committed the offense with the intent to:

(A) further the criminal activities of the criminal street gang; or

(B) avoid detection as a member of a criminal street gang.

(f) In this section, "minor" means an individual younger than 17 years of age.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.49, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 2, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.03, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.83, eff. January 1, 2017.

Sec. 15.04. RENUNCIATION DEFENSE. (a) It is an affirmative defense to prosecution under Section 15.01 that under circumstances manifesting a voluntary and complete renunciation of his criminal objective the actor avoided commission of the offense attempted by
abandoning his criminal conduct or, if abandonment was insufficient to avoid commission of the offense, by taking further affirmative action that prevented the commission.

(b) It is an affirmative defense to prosecution under Section 15.02 or 15.03 that under circumstances manifesting a voluntary and complete renunciation of his criminal objective the actor countermanded his solicitation or withdrew from the conspiracy before commission of the object offense and took further affirmative action that prevented the commission of the object offense.

(c) Renunciation is not voluntary if it is motivated in whole or in part:

(1) by circumstances not present or apparent at the inception of the actor's course of conduct that increase the probability of detection or apprehension or that make more difficult the accomplishment of the objective; or

(2) by a decision to postpone the criminal conduct until another time or to transfer the criminal act to another but similar objective or victim.

(d) Evidence that the defendant renounced his criminal objective by abandoning his criminal conduct, countermanding his solicitation, or withdrawing from the conspiracy before the criminal offense was committed and made substantial effort to prevent the commission of the object offense shall be admissible as mitigation at the hearing on punishment if he has been found guilty of criminal attempt, criminal solicitation, or criminal conspiracy; and in the event of a finding of renunciation under this subsection, the punishment shall be one grade lower than that provided for the offense committed.


Sec. 15.05. NO OFFENSE. Attempt or conspiracy to commit, or solicitation of, a preparatory offense defined in this chapter is not an offense.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Sec. 19.01. TYPES OF CRIMINAL HOMICIDE. (a) A person commits criminal homicide if he intentionally, knowingly, recklessly, or with criminal negligence causes the death of an individual.

(b) Criminal homicide is murder, capital murder, manslaughter, or criminally negligent homicide.


Sec. 19.02. MURDER. (a) In this section:

(1) "Adequate cause" means cause that would commonly produce a degree of anger, rage, resentment, or terror in a person of ordinary temper, sufficient to render the mind incapable of cool reflection.

(2) "Sudden passion" means passion directly caused by and arising out of provocation by the individual killed or another acting with the person killed which passion arises at the time of the offense and is not solely the result of former provocation.

(b) A person commits an offense if he:

(1) intentionally or knowingly causes the death of an individual;

(2) intends to cause serious bodily injury and commits an act clearly dangerous to human life that causes the death of an individual; or

(3) commits or attempts to commit a felony, other than manslaughter, and in the course of and in furtherance of the commission or attempt, or in immediate flight from the commission or attempt, he commits or attempts to commit an act clearly dangerous to human life that causes the death of an individual.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.
(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he caused the death under the immediate influence of sudden passion arising from an adequate cause. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.


Sec. 19.03. CAPITAL MURDER. (a) A person commits an offense if the person commits murder as defined under Section 19.02(b)(1) and:

(1) the person murders a peace officer or fireman who is acting in the lawful discharge of an official duty and who the person knows is a peace officer or fireman;

(2) the person intentionally commits the murder in the course of committing or attempting to commit kidnapping, burglary, robbery, aggravated sexual assault, arson, obstruction or retaliation, or terroristic threat under Section 22.07(a)(1), (3), (4), (5), or (6);

(3) the person commits the murder for remuneration or the promise of remuneration or employs another to commit the murder for remuneration or the promise of remuneration;

(4) the person commits the murder while escaping or attempting to escape from a penal institution;

(5) the person, while incarcerated in a penal institution, murders another:

(A) who is employed in the operation of the penal institution; or

(B) with the intent to establish, maintain, or participate in a combination or in the profits of a combination;

(6) the person:

(A) while incarcerated for an offense under this section or Section 19.02, murders another; or

(B) while serving a sentence of life imprisonment
or a term of 99 years for an offense under Section 20.04, 22.021, or 29.03, murders another;

(7) the person murders more than one person:

(A) during the same criminal transaction; or

(B) during different criminal transactions but the murders are committed pursuant to the same scheme or course of conduct;

(8) the person murders an individual under 10 years of age; or

(9) the person murders another person in retaliation for or on account of the service or status of the other person as a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court.

(b) An offense under this section is a capital felony.

(c) If the jury or, when authorized by law, the judge does not find beyond a reasonable doubt that the defendant is guilty of an offense under this section, he may be convicted of murder or of any other lesser included offense.


Amended by:

Acts 2005, 79th Leg., Ch. 428 (S.B. 1791), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1209 (S.B. 377), Sec. 1, eff. September 1, 2011.

Sec. 19.04. MANSLAUGHTER. (a) A person commits an offense if he recklessly causes the death of an individual.

(b) An offense under this section is a felony of the second
degree.
1123, ch. 426, art. 2, Sec. 1, eff. Jan. 1, 1974. Amended by Acts
1987, 70th Leg., ch. 307, Sec. 1, eff. Sept. 1, 1987. Renumbered
from Penal Code Sec. 19.05 and amended by Acts 1993, 73rd Leg., ch.
900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 19.05. CRIMINALLY NEGLIGENT HOMICIDE. (a) A person
commits an offense if he causes the death of an individual by
criminal negligence.

(b) An offense under this section is a state jail felony.
Renumbered from Penal Code Sec. 19.06 by Acts 1973, 63rd Leg., p.
1123, ch. 426, art. 2, Sec. 1, eff. Jan. 1, 1974. Renumbered from
Penal Code Sec. 19.07 and amended by Acts 1993, 73rd Leg., ch. 900,
Sec. 1.01, eff. Sept. 1, 1994.

Sec. 19.06. APPLICABILITY TO CERTAIN CONDUCT. This chapter
does not apply to the death of an unborn child if the conduct
charged is:

(1) conduct committed by the mother of the unborn child;

(2) a lawful medical procedure performed by a
physician or other licensed health care provider with the requisite
consent, if the death of the unborn child was the intended result of
the procedure;

(3) a lawful medical procedure performed by a
physician or other licensed health care provider with the requisite
consent as part of an assisted reproduction as defined by Section
160.102, Family Code; or

(4) the dispensation of a drug in accordance with law
or administration of a drug prescribed in accordance with law.
Added by Acts 2003, 78th Leg., ch. 822, Sec. 2.02, eff. Sept. 1,
2003.
Penal Code
Title 5. Offenses Against the Person
Chapter 20. Kidnapping, Unlawful Restraint, and Smuggling of Persons

Sec. 20.01. Definitions. In this chapter:

1. "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person. Restraint is "without consent" if it is accomplished by:

   (A) force, intimidation, or deception; or

   (B) any means, including acquiescence of the victim, if:

      (i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or

      (ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement.

2. "Abduct" means to restrain a person with intent to prevent his liberation by:

   (A) secreting or holding him in a place where he is not likely to be found; or

   (B) using or threatening to use deadly force.

3. "Relative" means a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

4. "Person" means an individual, corporation, or association.

5. Notwithstanding Section 1.07, "individual" means a human being who has been born and is alive.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
Sec. 20.02. UNLAWFUL RESTRAINT. (a) A person commits an offense if he intentionally or knowingly restrains another person.

(b) It is an affirmative defense to prosecution under this section that:

(1) the person restrained was a child younger than 14 years of age;

(2) the actor was a relative of the child; and

(3) the actor's sole intent was to assume lawful control of the child.

(c) An offense under this section is a Class A misdemeanor, except that the offense is:

(1) a state jail felony if the person restrained was a child younger than 17 years of age;

(2) a felony of the third degree if:

(A) the actor recklessly exposes the victim to a substantial risk of serious bodily injury;

(B) the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; or

(C) the actor while in custody restrains any other person; or

(3) notwithstanding Subdivision (2)(B), a felony of the second degree if the actor restrains an individual the actor knows is a peace officer or judge while the officer or judge is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a peace officer or judge.

(d) It is no offense to detain or move another under this section when it is for the purpose of effecting a lawful arrest or detaining an individual lawfully arrested.

(e) It is an affirmative defense to prosecution under this section that:
(1) the person restrained was a child who is 14 years of age or older and younger than 17 years of age;
(2) the actor does not restrain the child by force, intimidation, or deception; and
(3) the actor is not more than three years older than the child.

Amended by:
Acts 2017, 85th Leg., R.S., Ch. 440 (H.B. 2908), Sec. 2, eff. September 1, 2017.

Sec. 20.03. KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person.
(b) It is an affirmative defense to prosecution under this section that:
(1) the abduction was not coupled with intent to use or to threaten to use deadly force;
(2) the actor was a relative of the person abducted; and
(3) the actor's sole intent was to assume lawful control of the victim.
(c) An offense under this section is a felony of the third degree.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 20.04. AGGRAVATED KIDNAPPING. (a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:
(1) hold him for ransom or reward;
(2) use him as a shield or hostage;
(3) facilitate the commission of a felony or the
flight after the attempt or commission of a felony;

(4) inflict bodily injury on him or violate or abuse him sexually;

(5) terrorize him or a third person; or

(6) interfere with the performance of any governmental or political function.

(b) A person commits an offense if the person intentionally or knowingly abducts another person and uses or exhibits a deadly weapon during the commission of the offense.

(c) Except as provided by Subsection (d), an offense under this section is a felony of the first degree.

(d) At the punishment stage of a trial, the defendant may raise the issue as to whether he voluntarily released the victim in a safe place. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the second degree.


Sec. 20.05. SMUGGLING OF PERSONS. (a) A person commits an offense if the person, with the intent to obtain a pecuniary benefit, knowingly:

(1) uses a motor vehicle, aircraft, watercraft, or other means of conveyance to transport an individual with the intent to:

(A) conceal the individual from a peace officer or special investigator; or

(B) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor; or

(2) encourages or induces a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection.

(b) An offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if:
(A) the actor commits the offense in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death; or

(B) the smuggled individual is a child younger than 18 years of age at the time of the offense; or

(2) a felony of the first degree if:

(A) it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or

(B) the smuggled individual suffered serious bodily injury or death.

(c) It is an affirmative defense to prosecution of an offense under this section, other than an offense punishable under Subsection (b)(1)(A) or (b)(2), that the actor is related to the smuggled individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(d) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

Added by Acts 1999, 76th Leg., ch. 1014, Sec. 1, eff. Sept. 1, 1999. Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 223 (H.B. 260), Sec. 2, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 14, eff. September 1, 2015.

Sec. 20.06. CONTINUOUS SMUGGLING OF PERSONS. (a) A person commits an offense if, during a period that is 10 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20.05.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20.05 or on which exact date the defendant engaged in that conduct. The jury
must agree unanimously that the defendant, during a period that is 10 or more days in duration, engaged two or more times in conduct that constitutes an offense under Section 20.05.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20.05, a defendant may not be convicted of the offense under Section 20.05 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20.05:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the conduct that constitutes an offense under Section 20.05 is alleged to have been committed against the same victim.

(e) Except as provided by Subsections (f) and (g), an offense under this section is a felony of the second degree.

(f) An offense under this section is a felony of the first degree if:

(1) the conduct constituting an offense under Section 20.05 is conducted in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death; or

(2) the smuggled individual is a child younger than 18 years of age at the time of the offense.

(g) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years, if:

(1) it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or

(2) the smuggled individual suffered serious bodily
injury or death.

Added by Acts 2015, 84th Leg., R.S., Ch. 333 (H.B. 11), Sec. 15, eff. September 1, 2015.
PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

CHAPTER 21. SEXUAL OFFENSES

Sec. 21.01. DEFINITIONS. In this chapter:

(1) "Deviate sexual intercourse" means:

(A) any contact between any part of the genitals of one person and the mouth or anus of another person; or

(B) the penetration of the genitals or the anus of another person with an object.

(2) "Sexual contact" means, except as provided by Section 21.11, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.


Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.124, eff. September 1, 2005.

Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR CHILDREN. (a) In this section, "child" has the meaning assigned by Section 22.011(c).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts
of sexual abuse, the actor is 17 years of age or older and the victim is a child younger than 14 years of age, regardless of whether the actor knows the age of the victim at the time of the offense.

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;
(4) aggravated sexual assault under Section 22.021;
(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an offense listed in Subdivisions (1)-(4);

(6) sexual performance by a child under Section 43.25;
(7) trafficking of persons under Section 20A.02(a)(7) or (8); and

(8) compelling prostitution under Section 43.05(a)(2).

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;
(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or
(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life, or for any term of not more than 99 years or less than 25 years.

Added by Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.17, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.04, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 31, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 2, eff. September 1, 2017.
Section 21.06 was declared unconstitutional by Lawrence v. Texas, 123 S.Ct. 2472.

Sec. 21.06. HOMOSEXUAL CONDUCT. (a) A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex.

(b) An offense under this section is a Class C misdemeanor.

Sec. 21.07. PUBLIC LEWDNESS.

(a) A person commits an offense if the person knowingly engages in any of the following acts in a public place or, if not in a public place, the person is reckless about whether another is present who will be offended or alarmed by the person's:

(1) act of sexual intercourse;
(2) act of deviate sexual intercourse; or
(3) act of sexual contact.

(b) An offense under this section is a Class A misdemeanor.

Amended by:
Acts 2017, 85th Leg., R.S., Ch. 739 (S.B. 1232), Sec. 1, eff. September 1, 2017.

Sec. 21.08. INDECENT EXPOSURE. (a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(b) An offense under this section is a Class B misdemeanor.
Sec. 21.09. BESTIALITY. (a) A person commits an offense if the person knowingly:

1. engages in an act involving contact between:
   a. the person's mouth, anus, or genitals and the anus or genitals of an animal; or
   b. the person's anus or genitals and the mouth of the animal;

2. fondles or touches the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice, including touching through clothing;

3. causes an animal to contact the seminal fluid of the person;

4. inserts any part of a person's body or any object into the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice;

5. possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that the animal be used for conduct described by Subdivision (1), (2), (3), or (4);

6. organizes, promotes, conducts, or participates as an observer of conduct described by Subdivision (1), (2), (3), or (4);

7. causes a person to engage or aids a person in engaging in conduct described by Subdivision (1), (2), (3), or (4);

8. permits conduct described by Subdivision (1), (2), (3), or (4) to occur on any premises under the person's control;

9. engages in conduct described by Subdivision (1), (2), (3), or (4) in the presence of a child younger than 18 years of age; or

10. advertises, offers, or accepts the offer of an animal with the intent that the animal be used in this state for conduct described by Subdivision (1), (2), (3), or (4).

(b) An offense under this section is a state jail felony, unless the offense is committed under Subsection (a)(9) or results in serious bodily injury or death of the animal, in which event the
offense is a felony of the second degree.

(c) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or veterinary practice.

Added by Acts 2017, 85th Leg., R.S., Ch. 739 (S.B. 1232), Sec. 2, eff. September 1, 2017.

Sec. 21.11. INDECENCY WITH A CHILD. (a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex and regardless of whether the person knows the age of the child at the time of the offense, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than three years older than the victim and of the opposite sex;

(2) did not use duress, force, or a threat against the victim at the time of the offense; and

(3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(b-1) It is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.

(c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual
desire of any person:

(1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or

(2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 23, eff. Sept. 1, 1999; Acts 2001,
77th Leg., ch. 739, Sec. 2, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 1, eff.
September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 32, eff.
September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 3, eff.
September 1, 2017.

Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT. (a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a position described by Section 21.003(a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, license, or credential for the position, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1);
or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if students enrolled in a public or private primary or secondary school are the primary participants in the activity; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

Added by Acts 2003, 78th Leg., ch. 224, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 610 (H.B. 401), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 772 (H.B. 3659), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 2, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 761 (H.B. 1610), Sec. 3, eff. September 1, 2011.

Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 1, eff. September 1, 2017.

Sec. 21.15. INVASIVE VISUAL RECORDING. (a) In this section:

(1) "Female breast" means any portion of the female breast below the top of the areola.

(2) "Intimate area" means the naked or clothed genitals, pubic area, anus, buttocks, or female breast of a person.

(3) "Changing room" means a room or portioned area provided for or primarily used for the changing of clothing and includes dressing rooms, locker rooms, and swimwear changing areas.

(4) "Promote" has the meaning assigned by Section 43.21.

(b) A person commits an offense if, without the other person's consent and with intent to invade the privacy of the other person, the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another in a bathroom or changing room; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(e) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or
transmitted is not sufficient to establish the person's consent under that subdivision.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 306 (H.B. 1804), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 955 (S.B. 1317), Sec. 1, eff. June 18, 2015.

Acts 2015, 84th Leg., R.S., Ch. 955 (S.B. 1317), Sec. 2, eff. June 18, 2015.

Sec. 21.16. UNLAWFUL DISCLOSURE OR PROMOTION OF INTIMATE VISUAL MATERIAL. (a) In this section:

(1) "Intimate parts" means the naked genitals, pubic area, anus, buttocks, or female nipple of a person.

(2) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(3) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse.

(4) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(5) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.
(b) A person commits an offense if:

(1) without the effective consent of the depicted person, the person intentionally discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct;

(2) the visual material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private;

(3) the disclosure of the visual material causes harm to the depicted person; and

(4) the disclosure of the visual material reveals the identity of the depicted person in any manner, including through:

(A) any accompanying or subsequent information or material related to the visual material; or

(B) information or material provided by a third party in response to the disclosure of the visual material.

(c) A person commits an offense if the person intentionally threatens to disclose, without the consent of the depicted person, visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct and the actor makes the threat to obtain a benefit:

(1) in return for not making the disclosure; or

(2) in connection with the threatened disclosure.

(d) A person commits an offense if, knowing the character and content of the visual material, the person promotes visual material described by Subsection (b) on an Internet website or other forum for publication that is owned or operated by the person.

(e) It is not a defense to prosecution under this section that the depicted person:

(1) created or consented to the creation of the visual material; or

(2) voluntarily transmitted the visual material to the actor.

(f) It is an affirmative defense to prosecution under Subsection (b) or (d) that:

(1) the disclosure or promotion is made in the course
of:

(A) lawful and common practices of law enforcement or medical treatment;
(B) reporting unlawful activity; or
(C) a legal proceeding, if the disclosure or promotion is permitted or required by law;

(2) the disclosure or promotion consists of visual material depicting in a public or commercial setting only a person's voluntary exposure of:

(A) the person's intimate parts; or
(B) the person engaging in sexual conduct; or

(3) the actor is an interactive computer service, as defined by 47 U.S.C. Section 230, and the disclosure or promotion consists of visual material provided by another person.

(g) An offense under this section is a state jail felony.
(h) If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 3, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 16(b), eff. September 1, 2017.

Sec. 21.17. VOYEURISM. (a) A person commits an offense if the person, with the intent to arouse or gratify the sexual desire of the actor, observes another person without the other person's consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy.

(b) Except as provided by Subsection (c) or (d), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of an offense under this section.

(d) An offense under this section is a state jail felony if the victim was a child younger than 14 years of age at the time of
the offense.

(e) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Added by Acts 2015, 84th Leg., R.S., Ch. 676 (H.B. 207), Sec. 1, eff. September 1, 2015.
Redesignated from Penal Code, Section 21.16 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(35), eff. September 1, 2017.

Sec. 21.18. SEXUAL COERCION. (a) In this section:

(1) "Intimate visual material" means the visual material described by Section 21.16(b)(1) or (c).

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(b) A person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit an offense under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02, 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to obtain, in return for not committing the threatened offense or in connection with the threatened offense, any of the following benefits:

(1) intimate visual material;

(2) an act involving sexual conduct causing arousal or gratification; or

(3) a monetary benefit or other benefit of value.

(c) A person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit an offense under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to obtain, in return for not committing the threatened offense or in connection with the threatened offense, either of the following benefits:

(1) intimate visual material; or

(2) an act involving sexual conduct causing arousal or gratification.

(d) This section applies to a threat regardless of how that threat is communicated, including a threat transmitted through
e-mail or an Internet website, social media account, or chat room and a threat made by other electronic or technological means.

(e) An offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 16(c), eff. September 1, 2017.

Added by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 4(b), eff. September 1, 2017.
PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

CHAPTER 22. ASSAULTIVE OFFENSES

Sec. 22.01. ASSAULT. (a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;

(2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or

(3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

(1) a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of
(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer;

(5) a person the actor knows is emergency services personnel while the person is providing emergency services; or

(6) a pregnant individual to force the individual to have an abortion.

(b-1) Notwithstanding Subsection (b), an offense under Subsection (a)(1) is a felony of the third degree if the offense is committed:

(1) while the actor is committed to a civil commitment facility; and

(2) against:

(A) an officer or employee of the Texas Civil Commitment Office:

(i) while the officer or employee is lawfully discharging an official duty at a civil commitment facility; or

(ii) in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or

(B) a person who contracts with the state to perform a service in a civil commitment facility or an employee of that person:

(i) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by the state to provide the service; or

(ii) in retaliation for or on account of the person's or employee's performance of a service within the scope of
the contract.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 27

(b-2) Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this chapter, Chapter 19, or Section 20.03, 20.04, or 21.11 against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 440 (H.B. 2908), Sec. 3

(b-2) Notwithstanding Subsection (b)(1), an offense under Subsection (a)(1) is a felony of the second degree if the offense is committed against a person the actor knows is a peace officer or judge while the officer or judge is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a peace officer or judge.

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual, as those terms are defined by Section 22.04;

(2) a Class B misdemeanor if the offense is committed
by a person who is not a sports participant against a person the
actor knows is a sports participant either:

(A) while the participant is performing duties or
responsibilities in the participant's capacity as a sports
participant; or

(B) in retaliation for or on account of the
participant's performance of a duty or responsibility within the
participant's capacity as a sports participant; or

(3) a Class A misdemeanor if the offense is committed
against a pregnant individual to force the individual to have an
abortion.

(d) For purposes of Subsection (b), the actor is presumed to
have known the person assaulted was a public servant, a security
officer, or emergency services personnel if the person was wearing
a distinctive uniform or badge indicating the person's employment
as a public servant or status as a security officer or emergency
services personnel.

(e) In this section:

(1) "Emergency services personnel" includes
firefighters, emergency medical services personnel as defined by
Section 773.003, Health and Safety Code, emergency
room personnel, and other individuals who, in the course and scope
of employment or as a volunteer, provide services for the benefit of
the general public during emergency situations.

(2) Repealed by Acts 2005, 79th Leg., R.S., Ch. 788
(S.B. 91), Sec. 6, eff. September 1, 2005.

(3) "Security officer" means a commissioned security
officer as defined by Section 1702.002, Occupations Code, or a
noncommissioned security officer registered under Section
1702.221, Occupations Code.

(4) "Sports participant" means a person who
participates in any official capacity with respect to an
interscholastic, intercollegiate, or other organized amateur or
professional athletic competition and includes an athlete,
referee, umpire, linesman, coach, instructor, administrator, or
staff member.

(f) For the purposes of Subsections (b)(2)(A) and (b-2)(2):
(1) A defendant has been previously convicted of an offense listed in those subsections committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) A conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed.

(g) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or both sections.
Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 16.002, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788 (S.B. 91), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788 (S.B. 91), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788 (S.B. 91), Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 623 (H.B. 495), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 623 (H.B. 495), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 427 (H.B. 2066), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 665 (H.B. 2240), Sec. 2, eff. September 1, 2009.

Acts 2013, 83rd Leg., R.S., Ch. 875 (H.B. 705), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 27, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 440 (H.B. 2908), Sec. 3, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 18, eff. September 1, 2017.

Sec. 22.011. SEXUAL ASSAULT. (a) A person commits an offense if:

(1) the person intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth,
anus, or sexual organ of another person, including the actor; or
(2) regardless of whether the person knows the age of
the child at the time of the offense, the person intentionally or
knowingly:

(A) causes the penetration of the anus or sexual
organ of a child by any means;

(B) causes the penetration of the mouth of a
child by the sexual organ of the actor;

(C) causes the sexual organ of a child to contact
or penetrate the mouth, anus, or sexual organ of another person,
including the actor;

(D) causes the anus of a child to contact the
mouth, anus, or sexual organ of another person, including the actor; or

(E) causes the mouth of a child to contact the
anus or sexual organ of another person, including the actor.

(b) A sexual assault under Subsection (a)(1) is without the
consent of the other person if:

(1) the actor compels the other person to submit or
participate by the use of physical force, violence, or coercion;

(2) the actor compels the other person to submit or
participate by threatening to use force or violence against the
other person or to cause harm to the other person, and the other
person believes that the actor has the present ability to execute
the threat;

(3) the other person has not consented and the actor
knows the other person is unconscious or physically unable to
resist;

(4) the actor knows that as a result of mental disease
or defect the other person is at the time of the sexual assault
incapable either of appraising the nature of the act or of resisting
it;

(5) the other person has not consented and the actor
knows the other person is unaware that the sexual assault is
occurring;

(6) the actor has intentionally impaired the other
person's power to appraise or control the other person's conduct by
administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

(c) In this section:

(1) "Child" means a person younger than 17 years of age.

(2) "Spouse" means a person who is legally married to another.

(3) "Health care services provider" means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) a physical therapist licensed under Chapter 453, Occupations Code;

(D) a physician assistant licensed under Chapter 204, Occupations Code; or

(E) a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

(4) "Mental health services provider" means an
individual, licensed or unlicensed, who performs or purports to
perform mental health services, including a:

(A) licensed social worker as defined by Section
505.002, Occupations Code;

(B) chemical dependency counselor as defined by
Section 504.001, Occupations Code;

(C) licensed professional counselor as defined
by Section 503.002, Occupations Code;

(D) licensed marriage and family therapist as
defined by Section 502.002, Occupations Code;

(E) member of the clergy;

(F) psychologist offering psychological services
as defined by Section 501.003, Occupations Code; or

(G) special officer for mental health assignment
certified under Section 1701.404, Occupations Code.

(5) "Employee of a facility" means a person who is an
employee of a facility defined by Section 250.001, Health and
Safety Code, or any other person who provides services for a
facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2)
that the conduct consisted of medical care for the child and did not
include any contact between the anus or sexual organ of the child
and the mouth, anus, or sexual organ of the actor or a third party.

(e) It is an affirmative defense to prosecution under
Subsection (a)(2):

(1) that the actor was the spouse of the child at the
time of the offense; or

(2) that:

(A) the actor was not more than three years older
than the victim and at the time of the offense:

(i) was not required under Chapter 62, Code
of Criminal Procedure, to register for life as a sex offender; or

(ii) was not a person who under Chapter 62,
Code of Criminal Procedure, had a reportable conviction or
adjudication for an offense under this section; and

(B) the victim:

(i) was a child of 14 years of age or older;
and

(ii) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.


Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.02, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 3, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 4, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 33, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 6, eff. September 1, 2017.
Sec. 22.02. AGGRAVATED ASSAULT. (a) A person commits an 
offense if the person commits assault as defined in Sec. 22.01 and 
the person:

(1) causes serious bodily injury to another, including 
the person's spouse; or
(2) uses or exhibits a deadly weapon during the 
commission of the assault.

(b) An offense under this section is a felony of the second 
degree, except that the offense is a felony of the first degree if:
(1) the actor uses a deadly weapon during the 
commission of the assault and causes serious bodily injury to a 
person whose relationship to or association with the defendant is 
described by Section 71.0021(b), 71.003, or 71.005, Family Code;
(2) regardless of whether the offense is committed 
under Subsection (a)(1) or (a)(2), the offense is committed:
(A) by a public servant acting under color of the 
servant's office or employment;
(B) against a person the actor knows is a public 
servant while the public servant is lawfully discharging an 
official duty, or in retaliation or on account of an exercise of 
of official power or performance of an official duty as a public 
servant;
(C) in retaliation against or on account of the 
service of another as a witness, prospective witness, informant, or 
person who has reported the occurrence of a crime; or
(D) against a person the actor knows is a 
security officer while the officer is performing a duty as a 
security officer; or
(3) the actor is in a motor vehicle, as defined by 
Section 501.002, Transportation Code, and:
(A) knowingly discharges a firearm at or in the 
direction of a habitation, building, or vehicle;
(B) is reckless as to whether the habitation, 
building, or vehicle is occupied; and
(C) in discharging the firearm, causes serious 
bodily injury to any person.
(c) The actor is presumed to have known the person assaulted was a public servant or a security officer if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer.

(d) In this section, "security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.


Amended by:

Acts 2005, 79th Leg., Ch. 788 (S.B. 91), Sec. 3, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 594 (H.B. 176), Sec. 2, eff. September 1, 2009.

Sec. 22.021. AGGRAVATED SEXUAL ASSAULT. (a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

(ii) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or
(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) regardless of whether the person knows the age of the child at the time of the offense, intentionally or knowingly:

(i) causes the penetration of the anus or sexual organ of a child by any means;

(ii) causes the penetration of the mouth of a child by the sexual organ of the actor;

(iii) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(iv) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(v) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor; and

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that any person will become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause any person to become the victim of an offense under Section 20A.02(a)(3), (4), (7), or (8) or to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who
engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) with the intent of facilitating the commission of the offense, administers or provides to the victim of the offense any substance capable of impairing the victim's ability to appraise the nature of the act or to resist the act;

(B) the victim is younger than 14 years of age, regardless of whether the person knows the age of the victim at the time of the offense; or

(c) the victim is an elderly individual or a disabled individual.

(b) In this section:

(1) "Child" has the meaning assigned by Section 22.011(c).

(2) "Elderly individual" has the meaning assigned by Section 22.04(c).

(3) "Disabled individual" means a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

(c) An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

(d) The defense provided by Section 22.011(d) applies to this section.

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.18, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.05, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 784 (H.B. 2589), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 34, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 7, eff. September 1, 2017.

Sec. 22.04. INJURY TO A CHILD, ELDERLY INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury;

or

(3) bodily injury.

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, boarding home facility, intermediate care facility for persons with an intellectual or developmental disability, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence
by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

(1) serious bodily injury;
(2) serious mental deficiency, impairment, or injury;

or

(3) bodily injury.

(b) An omission that causes a condition described by Subsection (a)(1), (2), or (3) or (a-1)(1), (2), or (3) is conduct constituting an offense under this section if:

(1) the actor has a legal or statutory duty to act; or
(2) the actor has assumed care, custody, or control of a child, elderly individual, or disabled individual.

(c) In this section:

(1) "Child" means a person 14 years of age or younger.
(2) "Elderly individual" means a person 65 years of age or older.
(3) "Disabled individual" means a person:
   (A) with one or more of the following:
      (i) autism spectrum disorder, as defined by Section 1355.001, Insurance Code;
      (ii) developmental disability, as defined by Section 112.042, Human Resources Code;
      (iii) intellectual disability, as defined by Section 591.003, Health and Safety Code;
      (iv) severe emotional disturbance, as defined by Section 261.001, Family Code;
      (v) traumatic brain injury, as defined by Section 92.001, Health and Safety Code; or
      (vi) mental illness, as defined by Section 571.003, Health and Safety Code; or
   (B) who otherwise by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

(4) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 620, Sec. 11, eff. September 1, 2011.

(d) For purposes of an omission that causes a condition
described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), or (3), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a felony of the second degree.

(f) An offense under Subsection (a)(3) or (a-1)(3) is a felony of the third degree when the conduct is committed intentionally or knowingly, except that an offense under Subsection (a)(3) is a felony of the second degree when the conduct is committed intentionally or knowingly and the victim is a disabled individual residing in a center, as defined by Section 555.001, Health and Safety Code, or in a facility licensed under Chapter 252, Health and Safety Code, and the actor is an employee of the center or facility whose employment involved providing direct care for the victim. When the conduct is engaged in recklessly, the offense is a state jail felony.

(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), or (3).

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this
section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that the actor would no longer provide any of the care described by Subsection (d), and notified in writing the parents or a person, other than the actor, acting in loco parentis to the child, elderly individual, or disabled individual that the actor would no longer provide any of the care described by Subsection (d); or

(2) notified in writing the Department of Family and Protective Services that the actor would no longer provide any of the care described by Subsection (d).

(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor, and the date the care was discontinued.

(k) It is a defense to prosecution under this section that the act or omission consisted of:

(1) reasonable medical care occurring under the direction of or by a licensed physician; or

(2) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

(1) It is an affirmative defense to prosecution under this section:

(1) that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy;

(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:

(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of
injury to the child, elderly individual, or disabled individual and failed to report the incident; and

(B) the person:

(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title;

(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and

(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or

(3) that:

(A) the actor was not more than three years older than the victim at the time of the offense; and

(B) the victim was a nondisabled or disabled child at the time of the offense.

(m) It is an affirmative defense to prosecution under Subsections (a)(1), (2), and (3) for injury to a disabled individual that the person did not know and could not reasonably have known that the individual was a disabled individual, as defined by Subsection (c), at the time of the offense.


Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.125(a), eff.
Sec. 22.041. ABANDONING OR ENDANGERING CHILD. (a) In this section, "abandon" means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.

(c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance
methamphetamine in the presence of the child;

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

Acts 2005, 79th Leg., Ch. 282 (H.B. 164), Sec. 10, eff. August 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 840 (H.B. 946), Sec. 2, eff. September 1, 2007.

Sec. 22.05. DEADLY CONDUCT. (a) A person commits an offense if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.

(b) A person commits an offense if he knowingly discharges a firearm at or in the direction of:

(1) one or more individuals; or
(2) a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

(c) Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

(d) For purposes of this section, "building," "habitation," and "vehicle" have the meanings assigned those terms by Section 30.01.

(e) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) is a felony of the third degree.


Sec. 22.06. CONSENT AS DEFENSE TO ASSAULTIVE CONDUCT. (a) The victim's effective consent or the actor's reasonable belief that the victim consented to the actor's conduct is a defense to prosecution under Section 22.01 (Assault), 22.02 (Aggravated Assault), or 22.05 (Deadly Conduct) if:

(1) the conduct did not threaten or inflict serious bodily injury; or
(2) the victim knew the conduct was a risk of:

(A) his occupation;
(B) recognized medical treatment; or
(C) a scientific experiment conducted by
recognized methods.

(b) The defense to prosecution provided by Subsection (a) is not available to a defendant who commits an offense described by Subsection (a) as a condition of the defendant's or the victim's initiation or continued membership in a criminal street gang, as defined by Section 71.01.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 273 (H.B. 184), Sec. 1, eff. September 1, 2007.

Sec. 22.07. TERRORISTIC THREAT. (a) A person commits an offense if he threatens to commit any offense involving violence to any person or property with intent to:

(1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies;

(2) place any person in fear of imminent serious bodily injury;

(3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place;

(4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

(5) place the public or a substantial group of the public in fear of serious bodily injury; or

(6) influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) An offense under Subsection (a)(2) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the offense:
(1) is committed against a member of the person's family or household or otherwise constitutes family violence; or
(2) is committed against a public servant.

(c-1) Notwithstanding Subsection (c)(2), an offense under Subsection (a)(2) is a state jail felony if the offense is committed against a person the actor knows is a peace officer or judge.

(d) An offense under Subsection (a)(3) is a Class A misdemeanor, unless the actor causes pecuniary loss of $1,500 or more to the owner of the building, room, place, or conveyance, in which event the offense is a state jail felony.

(e) An offense under Subsection (a)(4), (a)(5), or (a)(6) is a felony of the third degree.

(f) In this section:

(1) "Family" has the meaning assigned by Section 71.003, Family Code.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Household" has the meaning assigned by Section 71.005, Family Code.

(g) For purposes of Subsection (d), the amount of pecuniary loss is the amount of economic loss suffered by the owner of the building, room, place, or conveyance as a result of the prevention or interruption of the occupation or use of the building, room, place, or conveyance.


Acts 2017, 85th Leg., R.S., Ch. 440 (H.B. 2908), Sec. 4, eff. September 1, 2017.

Sec. 22.08. AIDING SUICIDE. (a) A person commits an
offense if, with intent to promote or assist the commission of suicide by another, he aids or attempts to aid the other to commit or attempt to commit suicide.

(b) An offense under this section is a Class C misdemeanor unless the actor's conduct causes suicide or attempted suicide that results in serious bodily injury, in which event the offense is a state jail felony.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 22.09. TAMPERING WITH CONSUMER PRODUCT. (a) In this section:

(1) "Consumer Product" means any product offered for sale to or for consumption by the public and includes "food" and "drugs" as those terms are defined in Section 431.002, Health and Safety Code.

(2) "Tamper" means to alter or add a foreign substance to a consumer product to make it probable that the consumer product will cause serious bodily injury.

(b) A person commits an offense if he knowingly or intentionally tampers with a consumer product knowing that the consumer product will be offered for sale to the public or as a gift to another.

(c) A person commits an offense if he knowingly or intentionally threatens to tamper with a consumer product with the intent to cause fear, to affect the sale of the consumer product, or to cause bodily injury to any person.

(d) An offense under Subsection (b) is a felony of the second degree unless a person suffers serious bodily injury, in which event it is a felony of the first degree. An offense under Subsection (c) is a felony of the third degree.

Sec. 22.10. LEAVING A CHILD IN A VEHICLE. (a) A person commits an offense if he intentionally or knowingly leaves a child in a motor vehicle for longer than five minutes, knowing that the child is:

(1) younger than seven years of age; and
(2) not attended by an individual in the vehicle who is 14 years of age or older.

(b) An offense under this section is a Class C misdemeanor.

Sec. 22.11. HARASSMENT BY PERSONS IN CERTAIN FACILITIES; HARASSMENT OF PUBLIC SERVANT. (a) A person commits an offense if, with the intent to assault, harass, or alarm, the person:

(1) while imprisoned or confined in a correctional or detention facility, causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal;

(2) while committed to a civil commitment facility, causes:

(A) an officer or employee of the Texas Civil Commitment Office to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal:

(i) while the officer or employee is lawfully discharging an official duty at a civil commitment facility; or

(ii) in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or

(B) a person who contracts with the state to perform a service in the facility or an employee of that person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal:

(i) while the person or employee is engaged
in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by the state to provide the service; or

(ii) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract; or

(3) causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.

(b) An offense under this section is a felony of the third degree.

(c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section.

(d) In this section, "correctional or detention facility" means:

(1) a secure correctional facility; or

(2) a "secure correctional facility" or a "secure detention facility" as defined by Section 51.02, Family Code, operated by or under contract with a juvenile board or the Texas Juvenile Justice Department or any other facility operated by or under contract with that department.

(e) For purposes of Subsection (a)(3), the actor is presumed to have known the person was a public servant if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant.

Added by Acts 1999, 76th Leg., ch. 335, Sec. 1, eff. Sept. 1, 1999.
Amended by:

Acts 2005, 79th Leg., Ch. 543 (H.B. 1095), Sec. 2, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 142, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 28, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 34 (S.B. 1576), Sec. 29, eff. September 1, 2017.

Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT. This chapter does not apply to conduct charged as having been committed against an individual who is an unborn child if the conduct is:

1. committed by the mother of the unborn child;
2. a lawful medical procedure performed by a physician or other health care provider with the requisite consent;
3. a lawful medical procedure performed by a physician or other licensed health care provider with the requisite consent as part of an assisted reproduction as defined by Section 160.102, Family Code; or
4. the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

Added by Acts 2003, 78th Leg., ch. 822, Sec. 2.04, eff. Sept. 1, 2003.
Sec. 25.01. BIGAMY. (a) An individual commits an offense if:

(1) he is legally married and he:

(A) purports to marry or does marry a person other than his spouse in this state, or any other state or foreign country, under circumstances that would, but for the actor's prior marriage, constitute a marriage; or

(B) lives with a person other than his spouse in this state under the appearance of being married; or

(2) he knows that a married person other than his spouse is married and he:

(A) purports to marry or does marry that person in this state, or any other state or foreign country, under circumstances that would, but for the person's prior marriage, constitute a marriage; or

(B) lives with that person in this state under the appearance of being married.

(b) For purposes of this section, "under the appearance of being married" means holding out that the parties are married with cohabitation and an intent to be married by either party.

(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior marriage was void or had been dissolved by death, divorce, or annulment. For purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court.

(d) For the purposes of this section, the lawful wife or husband of the actor may testify both for or against the actor concerning proof of the original marriage.
(e) An offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is:

(1) 17 years of age, the offense is a felony of the second degree; or

(2) 16 years of age or younger, the offense is a felony of the first degree.

Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.03, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 222 (H.B. 253), Sec. 4, eff. September 1, 2011.

Sec. 25.02. PROHIBITED SEXUAL CONDUCT. (a) A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy:

(1) the actor's ancestor or descendant by blood or adoption;

(2) the actor's current or former stepchild or stepparent;

(3) the actor's parent's brother or sister of the whole or half blood;

(4) the actor's brother or sister of the whole or half blood or by adoption;

(5) the children of the actor's brother or sister of the whole or half blood or by adoption; or

(6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(b) For purposes of this section:

(1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person with intent to arouse or gratify the sexual desire of any
person.

(2) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(1), in which event the offense is a felony of the second degree.


Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 4.04, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 673 (H.B. 2385), Sec. 1, eff. September 1, 2009.

Sec. 25.03. INTERFERENCE WITH CHILD CUSTODY. (a) A person commits an offense if the person takes or retains a child younger than 18 years of age:

(1) when the person knows that the person's taking or retention violates the express terms of a judgment or order, including a temporary order, of a court disposing of the child's custody;

(2) when the person has not been awarded custody of the child by a court of competent jurisdiction, knows that a suit for divorce or a civil suit or application for habeas corpus to dispose of the child's custody has been filed, and takes the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without the permission of the court and with the intent to deprive the court of authority over the child; or

(3) outside of the United States with the intent to deprive a person entitled to possession of or access to the child of that possession or access and without the permission of that person.

(b) A noncustodial parent commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, the noncustodial parent knowingly entices or persuades
the child to leave the custody of the custodial parent, guardian, or person standing in the stead of the custodial parent or guardian of the child.

(c) It is a defense to prosecution under Subsection (a)(2) that the actor returned the child to the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, within three days after the date of the commission of the offense.

(c-1) It is an affirmative defense to prosecution under Subsection (a)(3) that:

(1) the taking or retention of the child was pursuant to a valid order providing for possession of or access to the child; or

(2) notwithstanding any violation of a valid order providing for possession of or access to the child, the actor's retention of the child was due only to circumstances beyond the actor's control and the actor promptly provided notice or made reasonable attempts to provide notice of those circumstances to the other person entitled to possession of or access to the child.

(c-2) Subsection (a)(3) does not apply if, at the time of the offense, the person taking or retaining the child:

(1) was entitled to possession of or access to the child; and

(2) was fleeing the commission or attempted commission of family violence, as defined by Section 71.004, Family Code, against the child or the person.

(d) An offense under this section is a state jail felony.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 272 (H.B. 95), Sec. 1, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 840 (H.B. 3439), Sec. 2, eff.
Sec. 25.031. AGREEMENT TO ABDUCT FROM CUSTODY. (a) A person commits an offense if the person agrees, for remuneration or the promise of remuneration, to abduct a child younger than 18 years of age by force, threat of force, misrepresentation, stealth, or unlawful entry, knowing that the child is under the care and control of a person having custody or physical possession of the child under a court order, including a temporary order, or under the care and control of another person who is exercising care and control with the consent of a person having custody or physical possession under a court order, including a temporary order.

(b) An offense under this section is a state jail felony.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 272 (H.B. 95), Sec. 2, eff. September 1, 2007.

Sec. 25.04. ENTICING A CHILD. (a) A person commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, he knowingly entices, persuades, or takes the child from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such child.

(b) An offense under this section is a Class B misdemeanor, unless it is shown on the trial of the offense that the actor intended to commit a felony against the child, in which event an offense under this section is a felony of the third degree.


Sec. 25.05. CRIMINAL NONSUPPORT. (a) An individual commits an offense if the individual intentionally or knowingly
fails to provide support for the individual's child younger than 18 years of age, or for the individual's child who is the subject of a court order requiring the individual to support the child.

(b) For purposes of this section, "child" includes a child born out of wedlock whose paternity has either been acknowledged by the actor or has been established in a civil suit under the Family Code or the law of another state.

(c) Under this section, a conviction may be had on the uncorroborated testimony of a party to the offense.

(d) It is an affirmative defense to prosecution under this section that the actor could not provide support for the actor's child.

(e) The pendency of a prosecution under this section does not affect the power of a court to enter an order for child support under the Family Code.

(f) An offense under this section is a state jail felony.


Sec. 25.06. HARBORING RUNAWAY CHILD. (a) A person commits an offense if he knowingly harbors a child and he is criminally negligent about whether the child:

(1) is younger than 18 years; and

(2) has escaped from the custody of a peace officer, a probation officer, the Texas Youth Council, or a detention facility for children, or is voluntarily absent from the child's home without the consent of the child's parent or guardian for a substantial length of time or without the intent to return.

(b) It is a defense to prosecution under this section that the actor was related to the child within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

(c) It is a defense to prosecution under this section that the actor notified:

(1) the person or agency from which the child escaped
or a law enforcement agency of the presence of the child within 24 hours after discovering that the child had escaped from custody; or

(2) a law enforcement agency or a person at the child's home of the presence of the child within 24 hours after discovering that the child was voluntarily absent from home without the consent of the child's parent or guardian.

(d) An offense under this section is a Class A misdemeanor.

(e) On the receipt of a report from a peace officer, probation officer, the Texas Youth Council, a foster home, or a detention facility for children that a child has escaped its custody or upon receipt of a report from a parent, guardian, conservator, or legal custodian that a child is missing, a law enforcement agency shall immediately enter a record of the child into the National Crime Information Center.


See note following this section.

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN A FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE. (a) A person commits an offense if, in violation of a condition of bond set in a family violence, sexual assault or abuse, stalking, or trafficking case and related to the safety of a victim or the safety of the community, an order issued under Chapter 7A, Code of Criminal Procedure, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, Chapter 85, Family Code, or Subchapter F, Chapter 261, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance
of an offense under Section 20A.02, 22.011, 22.021, or 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order or condition of bond:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends;

(4) possesses a firearm;

(5) harms, threatens, or interferes with the care, custody, or control of a pet, companion animal, or assistance animal that is possessed by a person protected by the order or condition of bond; or

(6) removes, attempts to remove, or otherwise tampers with the normal functioning of a global positioning monitoring system.

(a-1) For purposes of Subsection (a)(5), possession of a pet, companion animal, or assistance animal by a person means:

(1) actual care, custody, control, or management of a pet, companion animal, or assistance animal by the person; or

(2) constructive possession of a pet, companion animal, or assistance animal owned by the person or for which the person has been the primary caregiver.

(b) For the purposes of this section:
(1) "Family violence," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2) "Firearm" has the meaning assigned by Chapter 46.

(2-a) "Global positioning monitoring system" has the meaning assigned by Article 17.49, Code of Criminal Procedure.

(3) "Assistance animal" has the meaning assigned by Section 121.002, Human Resources Code.

(4) "Sexual abuse" means any act as described by Section 21.02 or 21.11.

(5) "Sexual assault" means any act as described by Section 22.011 or 22.021.

(6) "Stalking" means any conduct that constitutes an offense under Section 42.072.

(7) "Trafficking" means any conduct that constitutes an offense under Section 20A.02.

c) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

d) Reconciliatory actions or agreements made by persons affected by an order do not affect the validity of the order or the duty of a peace officer to enforce this section.

e) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.

f) It is not a defense to prosecution under this section that certain information has been excluded, as provided by Section 85.007, Family Code, or Article 17.292, Code of Criminal Procedure, from an order to which this section applies.

g) An offense under this section is a Class A misdemeanor, except the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant:

(1) has previously been convicted two or more times of an offense under this section or two or more times of an offense under Section 25.072, or has previously been convicted of an
offense under this section and an offense under Section 25.072; or

(2) has violated the order or condition of bond by committing an assault or the offense of stalking.

Amendments to Subsection (a) of this section made by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), take effect on September 1, 2017, but only if a specific appropriation is provided as described by Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 74, which states: Subchapter F, Chapter 261, Family Code, as added by this Act, Section 262.206, Family Code, as added by this Act, Section 572.001, Health and Safety Code, as amended by this Act, and Section 25.07(a), Penal Code, as amended by this Act, take effect only if a specific appropriation for the implementation of those sections is provided in a general appropriations act of the 85th Legislature.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 66 (S.B. 584), Sec. 2, eff. May 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1113 (H.B. 3692), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 19.001, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 136 (S.B. 279), Sec. 4, eff.
Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 2, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 543 (S.B. 555), Sec. 3, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 760 (S.B. 893), Sec. 5, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 760 (S.B. 893), Sec. 6, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 1086 (H.B. 2645), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1086 (H.B. 2645), Sec. 3, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1133 (S.B. 147), Sec. 2, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1133 (S.B. 147), Sec. 3, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 68, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 69, eff. September 1, 2017.

Sec. 25.071. VIOLATION OF PROTECTIVE ORDER PREVENTING OFFENSE CAUSED BY BIAS OR PREJUDICE. (a) A person commits an offense if, in violation of an order issued under Article 6.08, Code of Criminal Procedure, the person knowingly or intentionally:

(1) commits an offense under Title 5 or Section 28.02, 28.03, or 28.08 and commits the offense because of bias or prejudice as described by Article 42.014, Code of Criminal Procedure;

(2) communicates:

(A) directly with a protected individual in a threatening or harassing manner;

(B) a threat through any person to a protected individual; or

(C) in any manner with the protected individual, if the order prohibits any communication with a protected individual; or
(3) goes to or near the residence or place of employment or business of a protected individual.

(b) If conduct constituting an offense under this section also constitutes an offense under another section of this code, the actor may be prosecuted under either section or under both sections.

(c) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.

(d) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault, in which event the offense is a third degree felony.

Added by Acts 2001, 77th Leg., ch. 85, Sec. 3.02, eff. Sept. 1, 2001.

Sec. 25.072. REPEATED VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS OF BOND IN FAMILY VIOLENCE, CHILD ABUSE OR NEGLECT, SEXUAL ASSAULT OR ABUSE, STALKING, OR TRAFFICKING CASE. (a) A person commits an offense if, during a period that is 12 months or less in duration, the person two or more times engages in conduct that constitutes an offense under Section 25.07.

(b) If the jury is the trier of fact, members of the jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 25.07.

(c) A defendant may not be convicted in the same criminal action of another offense an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).
(d) A defendant may not be charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed in violation of a single court order or single setting of bond.

(e) An offense under this section is a felony of the third degree.

Added by Acts 2013, 83rd Leg., R.S., Ch. 96 (S.B. 743), Sec. 1, eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 317 (H.B. 7), Sec. 70, eff. September 1, 2017.

Sec. 25.08. SALE OR PURCHASE OF CHILD. (a) A person commits an offense if he:

(1) possesses a child younger than 18 years of age or has the custody, conservatorship, or guardianship of a child younger than 18 years of age, whether or not he has actual possession of the child, and he offers to accept, agrees to accept, or accepts a thing of value for the delivery of the child to another or for the possession of the child by another for purposes of adoption; or

(2) offers to give, agrees to give, or gives a thing of value to another for acquiring or maintaining the possession of a child for the purpose of adoption.

(b) It is an exception to the application of this section that the thing of value is:

(1) a fee or reimbursement paid to a child-placing agency as authorized by law;

(2) a fee paid to an attorney, social worker, mental health professional, or physician for services rendered in the usual course of legal or medical practice or in providing adoption counseling;

(3) a reimbursement of legal or medical expenses incurred by a person for the benefit of the child; or

(4) a necessary pregnancy-related expense paid by a child-placing agency for the benefit of the child's parent during the pregnancy or after the birth of the child as permitted by the
minimum standards for child-placing agencies and Department of Protective and Regulatory Services rules.

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if the actor commits the offense with intent to commit an offense under Section 20A.02, 43.02, 43.05, or 43.25.


Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 4.01, eff. September 1, 2011.

Sec. 25.081. UNREGULATED CUSTODY TRANSFER OF ADOPTED CHILD.

(a) In this section:

(1) "Adopted child" means a person younger than 18 years of age who was legally adopted through a governmental entity or through private means, including a person who is in foster care or from a foreign country at the time of the adoption.

(2) "Unregulated custody transfer" means the transfer of the permanent physical custody of an adopted child by the parent, managing conservator, or guardian of the child without receiving approval of the transfer by a court as required by Section 162.026, Family Code.

(b) Except as otherwise provided by this section, a person commits an offense if the person knowingly:

(1) conducts an unregulated custody transfer of an adopted child; or

(2) facilitates or participates in the unregulated custody transfer of an adopted child, including by transferring, recruiting, harboring, transporting, providing, soliciting, or obtaining an adopted child for that purpose.

(c) An offense under this section is a felony of the third
degree, except that the offense is a felony of the second degree if
the actor commits the offense with intent to commit an offense under
Section 20A.02, 43.02, 43.05, 43.25, 43.251, or 43.26.

(d) This section does not apply to:

(1) the placement of an adopted child with a licensed
child-placing agency, the Department of Family and Protective
Services, or an adult relative, stepparent, or other adult with a
significant and long-standing relationship to the child;

(2) the placement of an adopted child by a licensed
child-placing agency or the Department of Family and Protective
Services;

(3) the temporary placement of an adopted child by the
child's parent, managing conservator, or guardian for a designated
short-term period with a specified intent and period for return of
the child due to temporary circumstances, including:
   (A) a vacation;
   (B) a school-sponsored function or activity; or
   (C) the incarceration, military service, medical
treatment, or incapacity of the parent, managing conservator, or
guardian;

(4) the placement of an adopted child in another state
in accordance with the requirements of Subchapter B, Chapter 162,
Family Code; or

(5) the voluntary delivery of an adopted child under
Subchapter D, Chapter 262, Family Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 985 (H.B. 834), Sec. 3,
eff. September 1, 2017.

Sec. 25.09. ADVERTISING FOR PLACEMENT OF CHILD. (a) A
person commits an offense if the person advertises in the public
media that the person will place, provide, or obtain a child for
adoption or any other form of permanent physical custody of the
child.

(b) This section does not apply to a licensed child-placing
agency that is identified in the advertisement as a licensed
child-placing agency.

(c) An offense under this section is a Class A misdemeanor
unless the person has been convicted previously under this section, in which event the offense is a felony of the third degree.

(d) In this section:

(1) "Child" has the meaning assigned by Section 101.003, Family Code.

(2) "Public media" has the meaning assigned by Section 38.01. The term also includes communications through the use of the Internet or another public computer network.

Added by Acts 1997, 75th Leg., ch. 561, Sec. 31, eff. Sept. 1, 1997.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 985 (H.B. 834), Sec. 4, eff. September 1, 2017.

Sec. 25.10. INTERFERENCE WITH RIGHTS OF GUARDIAN OF THE PERSON. (a) In this section:

(1) "Possessory right" means the right of a guardian of the person to have physical possession of a ward and to establish the ward's legal domicile, as provided by Section 1151.051(c)(1), Estates Code.

(2) "Ward" has the meaning assigned by Chapter 1002, Estates Code.

(b) A person commits an offense if the person takes, retains, or conceals a ward when the person knows that the person's taking, retention, or concealment interferes with a possessory right with respect to the ward.

(c) An offense under this section is a state jail felony.

(d) This section does not apply to a governmental entity where the taking, retention, or concealment of the ward was authorized by Subtitle E, Title 5, Family Code, or Chapter 48, Human Resources Code.

Added by Acts 2003, 78th Leg., ch. 549, Sec. 32, eff. Sept. 1, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.056, eff. September 1, 2017.

Sec. 25.11. CONTINUOUS VIOLENCE AGAINST THE FAMILY. (a) A person commits an offense if, during a period that is 12 months or
less in duration, the person two or more times engages in conduct that constitutes an offense under Section 22.01(a)(1) against another person or persons whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code.

(b) If the jury is the trier of fact, members of the jury are not required to agree unanimously on the specific conduct in which the defendant engaged that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a) or the exact date when that conduct occurred. The jury must agree unanimously that the defendant, during a period that is 12 months or less in duration, two or more times engaged in conduct that constituted an offense under Section 22.01(a)(1) against the person or persons described by Subsection (a).

(c) A defendant may not be convicted in the same criminal action of another offense the victim of which is an alleged victim of the offense under Subsection (a) and an element of which is any conduct that is alleged as an element of the offense under Subsection (a) unless the other offense:

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the specific conduct that is alleged to have been engaged in is alleged to have been committed against a single victim or members of the same household, as defined by Section 71.005, Family Code.

(e) An offense under this section is a felony of the third degree.

Added by Acts 2009, 81st Leg., R.S., Ch. 665 (H.B. 2240), Sec. 1, eff. September 1, 2009.
PENAL CODE

TITLE 7. OFFENSES AGAINST PROPERTY

CHAPTER 28. ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION

Sec. 28.01. DEFINITIONS. In this chapter:

(1) "Habitation" means a structure or vehicle that is adapted for the overnight accommodation of persons and includes:
   (A) each separately secured or occupied portion of the structure or vehicle; and
   (B) each structure appurtenant to or connected with the structure or vehicle.

(2) "Building" means any structure or enclosure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use.

(3) "Property" means:
   (A) real property;
   (B) tangible or intangible personal property, including anything severed from land; or
   (C) a document, including money, that represents or embodies anything of value.

(4) "Vehicle" includes any device in, on, or by which any person or property is or may be propelled, moved, or drawn in the normal course of commerce or transportation.

(5) "Open-space land" means real property that is undeveloped for the purpose of human habitation.

(6) "Controlled burning" means the burning of unwanted vegetation with the consent of the owner of the property on which the vegetation is located and in such a manner that the fire is controlled and limited to a designated area.


Sec. 28.02. ARSON. (a) A person commits an offense if the person starts a fire, regardless of whether the fire continues
after ignition, or causes an explosion with intent to destroy or damage:

(1) any vegetation, fence, or structure on open-space land; or

(2) any building, habitation, or vehicle:
   (A) knowing that it is within the limits of an incorporated city or town;
   (B) knowing that it is insured against damage or destruction;
   (C) knowing that it is subject to a mortgage or other security interest;
   (D) knowing that it is located on property belonging to another;
   (E) knowing that it has located within it property belonging to another; or
   (F) when the person is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

(a-1) A person commits an offense if the person recklessly starts a fire or causes an explosion while manufacturing or attempting to manufacture a controlled substance and the fire or explosion damages any building, habitation, or vehicle.

(a-2) A person commits an offense if the person intentionally starts a fire or causes an explosion and in so doing:
   (1) recklessly damages or destroys a building belonging to another; or
   (2) recklessly causes another person to suffer bodily injury or death.

(b) It is an exception to the application of Subsection (a)(1) that the fire or explosion was a part of the controlled burning of open-space land.

(c) It is a defense to prosecution under Subsection (a)(2)(A) that prior to starting the fire or causing the explosion, the actor obtained a permit or other written authorization granted in accordance with a city ordinance, if any, regulating fires and explosions.

(d) An offense under Subsection (a) is a felony of the
second degree, except that the offense is a felony of the first
degree if it is shown on the trial of the offense that:

(1) bodily injury or death was suffered by any person
by reason of the commission of the offense; or

(2) the property intended to be damaged or destroyed
by the actor was a habitation or a place of assembly or worship.

(e) An offense under Subsection (a-1) is a state jail
felony, except that the offense is a felony of the third degree if
it is shown on the trial of the offense that bodily injury or death
was suffered by any person by reason of the commission of the
offense.

(f) An offense under Subsection (a-2) is a state jail
felony.

(g) If conduct that constitutes an offense under Subsection
(a-1) or that constitutes an offense under Subsection (a-2) also
constitutes an offense under another subsection of this section or
another section of this code, the actor may be prosecuted under
Subsection (a-1) or Subsection (a-2), under the other subsection of
this section, or under the other section of this code.

Amended by Acts 1979, 66th Leg., p. 1216, ch. 588, Sec. 2, eff.
Sept. 1, 1979; Acts 1981, 67th Leg., p. 1837, ch. 425, Sec. 1, eff.
Sept. 1, 1981; Acts 1989, 71st Leg., ch. 31, Sec. 2, eff. Sept. 1,
1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994;
Acts 1997, 75th Leg., ch. 1006, Sec. 1, eff. Sept. 1, 1997; Acts
Amended by:

Acts 2005, 79th Leg., Ch. 960 (H.B. 1634), Sec. 1, eff.
September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1168 (H.B. 3224), Sec. 1, eff.
September 1, 2009.

Sec. 28.03. CRIMINAL MISCHIEF. (a) A person commits an
offense if, without the effective consent of the owner:

(1) he intentionally or knowingly damages or destroys
the tangible property of the owner;

(2) he intentionally or knowingly tampers with the
tangible property of the owner and causes pecuniary loss or substantial inconvenience to the owner or a third person; or

(3) he intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner.

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than $100; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is $100 or more but less than $750;

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is $750 or more but less than $2,500; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

(4) a state jail felony if the amount of pecuniary loss is:

(A) $2,500 or more but less than $30,000;

(B) less than $2,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(C) less than $2,500, if the property was a fence used for the production or containment of:

(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

(D) less than $30,000 and the actor:

(i) causes wholly or partly impairment or
interruption of property used for flood control purposes or a dam or of public communications, public transportation, public gas or power supply, or other public service; or

(ii) causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if:

(A) the amount of the pecuniary loss is $30,000 or more but less than $150,000; or

(B) the actor, by discharging a firearm or other weapon or by any other means, causes the death of one or more head of cattle or bison or one or more horses;

(6) a felony of the second degree if the amount of pecuniary loss is $150,000 or more but less than $300,000; or

(7) a felony of the first degree if the amount of pecuniary loss is $300,000 or more.

(c) For the purposes of this section, it shall be presumed that a person who is receiving the economic benefit of public communications, public water, gas, or power supply, has knowingly tampered with the tangible property of the owner if the communication or supply has been:

(1) diverted from passing through a metering device; or

(2) prevented from being correctly registered by a metering device; or

(3) activated by any device installed to obtain public communications, public water, gas, or power supply without a metering device.

(d) The terms "public communication, public transportation, public gas or power supply, or other public service" and "public water supply" shall mean, refer to, and include any such services subject to regulation by the Public Utility Commission of Texas, the Railroad Commission of Texas, or the Texas Natural Resource Conservation Commission or any such services enfranchised by the State of Texas or any political subdivision thereof.

(e) When more than one item of tangible property, belonging
to one or more owners, is damaged, destroyed, or tampered with in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the damage to, destruction of, or tampering with the property may be aggregated in determining the grade of the offense.

(f) An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is $750 or more but less than $30,000.

(g) In this section:

(1) "Explosive weapon" means any explosive or incendiary device that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes:
   (A) an explosive or incendiary bomb, grenade, rocket, and mine;
   (B) a device designed, made, or adapted for delivering or shooting an explosive weapon; and
   (C) a device designed, made, or adapted to start a fire in a time-delayed manner.

(2) "Firearm" has the meaning assigned by Section 46.01.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Aluminum wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent aluminum, including any tubing or conduit attached to the wire or cable.

(5) "Bronze wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent bronze, including any tubing or conduit attached to the wire or cable.

(6) "Copper wiring" means insulated or noninsulated wire or cable that consists of at least 50 percent copper, including any tubing or conduit attached to the wire or cable.
"Transportation communications equipment" means:

(A) an official traffic-control device, railroad sign or signal, or traffic-control signal, as those terms are defined by Section 541.304, Transportation Code; or

(B) a sign, signal, or device erected by a railroad, public body, or public officer to direct the movement of a railroad train, as defined by Section 541.202, Transportation Code.

"Transportation communications device" means any item attached to transportation communications equipment, including aluminum wiring, bronze wiring, and copper wiring.

An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is $750 or more but less than $30,000 and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

Notwithstanding Subsection (b), an offense under this section is a felony of the first degree if the property is livestock and the damage is caused by introducing bovine spongiform encephalopathy, commonly known as mad cow disease, or a disease described by Section 161.041(a), Agriculture Code. In this subsection, "livestock" has the meaning assigned by Section 161.001, Agriculture Code.

Notwithstanding Subsection (b), an offense under this section is a felony of the third degree if:

(1) the tangible property damaged, destroyed, or tampered with is transportation communications equipment or a transportation communications device; and

(2) the amount of the pecuniary loss to the tangible property is less than $150,000.

Subsection (a)(1) or (2) does not apply if the tangible personal property of the owner was a head of cattle or bison killed, or a horse killed, in the course of the actor's:

(1) actual discharge of official duties as a member of the United States armed forces or the state military forces as defined by Section 437.001, Government Code; or

(2) regular agricultural labor duties and practices.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 690 (H.B. 1767), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 690 (H.B. 1767), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 638 (H.B. 1614), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 5, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 136 (H.B. 1257), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 500 (H.B. 2817), Sec. 2, eff. September 1, 2017.

Sec. 28.04. RECKLESS DAMAGE OR DESTRUCTION. (a) A person commits an offense if, without the effective consent of the owner, he recklessly damages or destroys property of the owner.

(b) An offense under this section is a Class C misdemeanor.


Sec. 28.05. ACTOR'S INTEREST IN PROPERTY. It is no defense
to prosecution under this chapter that the actor has an interest in the property damaged or destroyed if another person also has an interest that the actor is not entitled to infringe.


Sec. 28.06. AMOUNT OF PECUNIARY LOSS. (a) The amount of pecuniary loss under this chapter, if the property is destroyed, is:

(1) the fair market value of the property at the time and place of the destruction; or

(2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the destruction.

(b) The amount of pecuniary loss under this chapter, if the property is damaged, is the cost of repairing or restoring the damaged property within a reasonable time after the damage occurred.

(c) The amount of pecuniary loss under this chapter for documents, other than those having a readily ascertainable market value, is:

(1) the amount due and collectible at maturity less any part that has been satisfied, if the document constitutes evidence of a debt; or

(2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of the destruction or damage if the document is other than evidence of a debt.

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c), the amount of loss is deemed to be greater than $750 but less than $2,500.

(e) If the actor proves by a preponderance of the evidence that he gave consideration for or had a legal interest in the property involved, the value of the interest so proven shall be deducted from:

(1) the amount of pecuniary loss if the property is destroyed; or
(2) the amount of pecuniary loss to the extent of an amount equal to the ratio the value of the interest bears to the total value of the property, if the property is damaged.


Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 6, eff. September 1, 2015.

Sec. 28.07. INTERFERENCE WITH RAILROAD PROPERTY. (a) In this section:

(1) "Railroad property" means:

(A) a train, locomotive, railroad car, caboose, work equipment, rolling stock, safety device, switch, or connection that is owned, leased, operated, or possessed by a railroad; or

(B) a railroad track, rail, bridge, trestle, or right-of-way owned or used by a railroad.

(2) "Tamper" means to move, alter, or interfere with railroad property.

(b) A person commits an offense if the person:

(1) throws an object or discharges a firearm or weapon at a train or rail-mounted work equipment; or

(2) without the effective consent of the owner:

(A) enters or remains on railroad property, knowing that it is railroad property;

(B) tampers with railroad property;

(C) places an obstruction on a railroad track or right-of-way; or

(D) causes in any manner the derailment of a train, railroad car, or other railroad property that moves on tracks.

(c) An offense under Subsection (b)(1) is a Class B misdemeanor unless the person causes bodily injury to another, in which event the offense is a felony of the third degree.

(d) An offense under Subsection (b)(2)(A) is a Class C
misdemeanor.

(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) is a Class C misdemeanor unless the person causes pecuniary loss of $100 or more, in which event the offense is:

1. a Class B misdemeanor if the amount of pecuniary loss is $100 or more but less than $750;

2. a Class A misdemeanor if the amount of pecuniary loss is $750 or more but less than $2,500;

3. a state jail felony if the amount of pecuniary loss is $2,500 or more but less than $30,000;

4. a felony of the third degree if the amount of the pecuniary loss is $30,000 or more but less than $150,000;

5. a felony of the second degree if the amount of pecuniary loss is $150,000 or more but less than $300,000; or

6. a felony of the first degree if the amount of the pecuniary loss is $300,000 or more.

(f) The conduct described in Subsection (b)(2)(A) is not an offense under this section if it is undertaken by an employee of the railroad or by a representative of a labor organization which represents or is seeking to represent the employees of the railroad as long as the employee or representative has a right to engage in such conduct under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

Added by Acts 1989, 71st Leg., ch. 908, Sec. 1, eff. Sept. 1, 1989.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 7, eff. September 1, 2015.

Sec. 28.08. GRAFFITI. (a) A person commits an offense if, without the effective consent of the owner, the person intentionally or knowingly makes markings, including inscriptions, slogans, drawings, or paintings, on the tangible property of the owner with:

1. paint;

2. an indelible marker; or
(3) an etching or engraving device.

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class C misdemeanor if the amount of pecuniary loss is less than $100;
(2) a Class B misdemeanor if the amount of pecuniary loss is $100 or more but less than $750;
(3) a Class A misdemeanor if the amount of pecuniary loss is $750 or more but less than $2,500;
(4) a state jail felony if the amount of pecuniary loss is $2,500 or more but less than $30,000;
(5) a felony of the third degree if the amount of pecuniary loss is $30,000 or more but less than $150,000;
(6) a felony of the second degree if the amount of pecuniary loss is $150,000 or more but less than $300,000; or
(7) a felony of the first degree if the amount of pecuniary loss is $300,000 or more.

(c) When more than one item of tangible property, belonging to one or more owners, is marked in violation of this section pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.

(d) An offense under this section is a state jail felony if:

(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and
(2) the amount of the pecuniary loss to real property or to tangible personal property is $750 or more but less than $30,000.

(e) In this section:

(1) "Aerosol paint" means an aerosolized paint product.
(2) "Etching or engraving device" means a device that makes a delineation or impression on tangible property, regardless of the manufacturer's intended use for that device.
(3) "Indelible marker" means a device that makes a mark with a paint or ink product that is specifically formulated to be more difficult to erase, wash out, or remove than ordinary paint or ink products.

(4) "Institution of higher education" has the meaning assigned by Section 481.134, Health and Safety Code.

(5) "School" means a private or public elementary or secondary school.

Added by Acts 1997, 75th Leg., ch. 593, Sec. 1, eff. Sept. 1, 1997.
Amended by Acts 1999, 76th Leg., ch. 166, Sec. 1, 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 695, Sec. 1, eff. Sept. 1, 1999;

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 639 (H.B. 1633), Sec. 4, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 8, eff. September 1, 2015.
PENAL CODE

TITLE 7. OFFENSES AGAINST PROPERTY

CHAPTER 29. ROBBERY

Sec. 29.01. DEFINITIONS. In this chapter:

(1) "In the course of committing theft" means conduct that occurs in an attempt to commit, during the commission, or in immediate flight after the attempt or commission of theft.

(2) "Property" means:

(A) tangible or intangible personal property including anything severed from land; or

(B) a document, including money, that represents or embodies anything of value.


Sec. 29.02. ROBBERY. (a) A person commits an offense if, in the course of committing theft as defined in Chapter 31 and with intent to obtain or maintain control of the property, he:

(1) intentionally, knowingly, or recklessly causes bodily injury to another; or

(2) intentionally or knowingly threatens or places another in fear of imminent bodily injury or death.

(b) An offense under this section is a felony of the second degree.


Sec. 29.03. AGGRAVATED ROBBERY. (a) A person commits an offense if he commits robbery as defined in Section 29.02, and he:

(1) causes serious bodily injury to another;

(2) uses or exhibits a deadly weapon; or

(3) causes bodily injury to another person or threatens or places another person in fear of imminent bodily injury or death, if the other person is:
(A) 65 years of age or older; or
(B) a disabled person.

(b) An offense under this section is a felony of the first degree.

(c) In this section, "disabled person" means an individual with a mental, physical, or developmental disability who is substantially unable to protect himself from harm.
PENAL CODE

TITLE 7. OFFENSES AGAINST PROPERTY

CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS

Sec. 30.01. DEFINITIONS. In this chapter:

(1) "Habitation" means a structure or vehicle that is adapted for the overnight accommodation of persons, and includes:
   (A) each separately secured or occupied portion of the structure or vehicle; and
   (B) each structure appurtenant to or connected with the structure or vehicle.

(2) "Building" means any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use.

(3) "Vehicle" includes any device in, on, or by which any person or property is or may be propelled, moved, or drawn in the normal course of commerce or transportation, except such devices as are classified as "habitation."

(4) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(5) "Wholesale distributor of prescription drugs" means a wholesale distributor, as defined by Section 431.401, Health and Safety Code.


Acts 2017, 85th Leg., R.S., Ch. 338 (H.B. 1178), Sec. 1, eff. September 1, 2017.

Sec. 30.02. BURGLARY. (a) A person commits an offense if, without the effective consent of the owner, the person:

(1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or

(2) remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or
(3) enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) Except as provided in Subsection (c-1) or (d), an offense under this section is a:

(1) state jail felony if committed in a building other than a habitation; or

(2) felony of the second degree if committed in a habitation.

(c-1) An offense under this section is a felony of the third degree if:

(1) the premises are a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; and

(2) the person entered or remained concealed in that building with intent to commit a theft of a controlled substance.

(d) An offense under this section is a felony of the first degree if:

(1) the premises are a habitation; and

(2) any party to the offense entered the habitation with intent to commit a felony other than felony theft or committed or attempted to commit a felony other than felony theft.


Acts 2017, 85th Leg., R.S., Ch. 338 (H.B. 1178), Sec. 2, eff. September 1, 2017.

Sec. 30.03. BURGLARY OF COIN-OPERATED OR COIN COLLECTION MACHINES. (a) A person commits an offense if, without the effective consent of the owner, he breaks or enters into any coin-operated machine, coin collection machine, or other coin-operated or coin collection receptacle, contrivance,
apparatus, or equipment used for the purpose of providing lawful amusement, sales of goods, services, or other valuable things, or telecommunications with intent to obtain property or services.

(b) For purposes of this section, "entry" includes every kind of entry except one made with the effective consent of the owner.

(c) An offense under this section is a Class A misdemeanor. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 62, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 30.04. BURGLARY OF VEHICLES. (a) A person commits an offense if, without the effective consent of the owner, he breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) For purposes of this section, a container or trailer carried on a rail car is a part of the rail car.

(d) An offense under this section is a Class A misdemeanor, except that:

(1) the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section;

(2) the offense is a state jail felony if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(B) the vehicle or part of the vehicle broken into or entered is a rail car; and

(3) the offense is a felony of the third degree if:

(A) the vehicle broken into or entered is owned or operated by a wholesale distributor of prescription drugs; and

(B) the actor breaks into or enters that vehicle with the intent to commit theft of a controlled substance.
(d-1) For the purposes of Subsection (d), a defendant has been previously convicted under this section if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

(e) It is a defense to prosecution under this section that the actor entered a rail car or any part of a rail car and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.). Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 916, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 308 (H.B. 1887), Sec. 1, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 338 (H.B. 1178), Sec. 3, eff. September 1, 2017.

Sec. 30.05. CRIMINAL TRESPASS. (a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent and the person:

(1) had notice that the entry was forbidden; or
(2) received notice to depart but failed to do so.

(b) For purposes of this section:

(1) "Entry" means the intrusion of the entire body.
(2) "Notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;
(B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
(D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

(i) vertical lines of not less than eight inches in length and not less than one inch in width;
(ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
(iii) placed at locations that are readily visible to any person approaching the property and no more than:
(a) 100 feet apart on forest land; or
(b) 1,000 feet apart on land other than forest land; or

(E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.

(3) "Shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(4) "Forest land" means land on which the trees are potentially valuable for timber products.

(5) "Agricultural land" has the meaning assigned by Section 75.001, Civil Practice and Remedies Code.

(6) "Superfund site" means a facility that:
(A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or
(B) is listed on the state registry established under Section 361.181, Health and Safety Code.

(7) "Critical infrastructure facility" means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders:
(A) a chemical manufacturing facility;
(B) a refinery;
(C) an electrical power generating facility, substation, switching station, electrical control center, or
electrical transmission or distribution facility;
   (D) a water intake structure, water treatment
facility, wastewater treatment plant, or pump station;
   (E) a natural gas transmission compressor
station;
   (F) a liquid natural gas terminal or storage
facility;
   (G) a telecommunications central switching
office;
   (H) a port, railroad switching yard, trucking
terminal, or other freight transportation facility;
   (I) a gas processing plant, including a plant
used in the processing, treatment, or fractionation of natural gas;
or
   (J) a transmission facility used by a federally
licensed radio or television station.
(8) "Protected freshwater area" has the meaning
assigned by Section 90.001, Parks and Wildlife Code.
(9) "Recognized state" means another state with which
the attorney general of this state, with the approval of the
governor of this state, negotiated an agreement after determining
that the other state:
   (A) has firearm proficiency requirements for
peace officers; and
   (B) fully recognizes the right of peace officers
commissioned in this state to carry weapons in the other state.
(10) "Recreational vehicle park" has the meaning
(11) "Residential land" means real property improved
by a dwelling and zoned for or otherwise authorized for
single-family or multifamily use.
(12) "Institution of higher education" has the meaning
assigned by Section 61.003, Education Code.
(c) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1138, Sec.
4, eff. September 1, 2009.
(d) An offense under this section is:
   (1) a Class B misdemeanor, except as provided by
Subdivisions (2) and (3);

(2) a Class C misdemeanor, except as provided by Subdivision (3), if the offense is committed:

(A) on agricultural land and within 100 feet of the boundary of the land; or

(B) on residential land and within 100 feet of a protected freshwater area; and

(3) a Class A misdemeanor if:

(A) the offense is committed:

(i) in a habitation or a shelter center;

(ii) on a Superfund site; or

(iii) on or in a critical infrastructure facility;

(B) the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:

(i) an offense under this section relating to entering or remaining on or in property of an institution of higher education; or

(ii) an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education; or

(C) the person carries a deadly weapon during the commission of the offense.

(d-1) For the purposes of Subsection (d)(3)(B), a person has previously been convicted of an offense described by that paragraph if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication community supervision, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from deferred adjudication community supervision.

(d-2) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(B), the defendant may raise the issue as to whether, at the time of the instant offense or the previous offense, the defendant was engaging in speech or expressive conduct
protected by the First Amendment to the United States Constitution or Section 8, Article I, Texas Constitution. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(B) does not apply.

(e) It is a defense to prosecution under this section that the actor at the time of the offense was:

(1) a firefighter or emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances;

(2) a person who was:

(A) an employee or agent of:
   (i) an electric utility, as defined by Section 31.002, Utilities Code;
   (ii) a telecommunications provider, as defined by Section 51.002, Utilities Code;
   (iii) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code;
   (iv) a gas utility, as defined by Section 101.003, Utilities Code, which for the purposes of this subsection includes a municipally owned utility as defined by that section;
   (v) a gas utility, as defined by Section 111.001, Utilities Code;
   (vi) a pipeline used for the transportation or sale of oil, gas, or related products; or
   (vii) an electric cooperative or municipally owned utility, as defined by Section 11.003, Utilities Code; and

(B) performing a duty within the scope of that employment or agency; or

(3) a person who was:

(A) employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property; and

(B) performing a duty within the scope of that employment or agency.
(f) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and

(2) the person was carrying:
   (A) a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and
   (B) a handgun:
      (i) in a concealed manner; or
      (ii) in a shoulder or belt holster.

(g) It is a defense to prosecution under this section that the actor entered a railroad switching yard or any part of a railroad switching yard and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

(h) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(A)(iii), the defendant may raise the issue as to whether the defendant entered or remained on or in a critical infrastructure facility as part of a peaceful or lawful assembly, including an attempt to exercise rights guaranteed by state or federal labor laws. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(A)(iii) does not apply.

(i) This section does not apply if:

(1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and

(2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2.122, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

(j) Repealed by Acts 2009, 81st Leg., R.S., Ch. 1138, Sec. 4, eff. September 1, 2009.

Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, Sec. 3, eff. Aug.
27, 1979; Acts 1981, 67th Leg., p. 2385, ch. 596, Sec. 1, eff. Sept.
1, 1981; Acts 1989, 71st Leg., ch. 139, Sec. 1, eff. Sept. 1, 1989;
Acts 1991, 72nd Leg., ch. 308, Sec. 1, eff. Sept. 1, 1991; Acts
1993, 73rd Leg., ch. 24, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd
Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg.,
ch. 1229, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch.
161, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 169, Sec.
1, 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 765, Sec. 1, 2,
eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 16.002,
21.001(94), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1078,
Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1178, Sec. 1,
eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 148.001,

Amended by:

Acts 2005, 79th Leg., Ch. 1093 (H.B. 2110), Sec. 3, eff.
September 1, 2005.

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 20, eff. June
18, 2005.

Acts 2005, 79th Leg., Ch. 1337 (S.B. 9), Sec. 21, eff. June
18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec.
17.001(61), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. 3167), Sec.
17.002(13), eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1138 (H.B. 2609), Sec. 1, eff.
September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1138 (H.B. 2609), Sec. 2, eff.
September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1138 (H.B. 2609), Sec. 3, eff.
September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1138 (H.B. 2609), Sec. 4, eff.
September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 20.001,
eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 564 (S.B. 701), Sec. 1, eff.
September 1, 2013.
Acts 2013, 83rd Leg., R.S., Ch. 613 (S.B. 1268), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1302 (H.B. 3142), Sec. 12, eff. June 14, 2013.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 40, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 602 (S.B. 1649), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 602 (S.B. 1649), Sec. 2, eff. September 1, 2017.

Sec. 30.06. TRESPASS BY LICENSE HOLDER WITH A CONCEALED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) carries a concealed handgun under the authority of Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that entry on the property by a license holder with a concealed handgun was forbidden.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun"; or

(B) a sign posted on the property that:

(i) includes the language described by
Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

(f) It is a defense to prosecution under this section that the license holder is volunteer emergency services personnel, as defined by Section 46.01.


Amended by:

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 41, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 42, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 43, eff. January 1, 2016.

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 8, eff. September 1, 2017.

Sec. 30.07. TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN. (a) A license holder commits an offense if the license holder:

(1) openly carries a handgun under the authority of
Subchapter H, Chapter 411, Government Code, on property of another without effective consent; and

(2) received notice that entry on the property by a license holder openly carrying a handgun was forbidden.

(b) For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

(c) In this section:

(1) "Entry" has the meaning assigned by Section 30.05(b).

(2) "License holder" has the meaning assigned by Section 46.035(f).

(3) "Written communication" means:

(A) a card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly"; or

(B) a sign posted on the property that:

(i) includes the language described by Paragraph (A) in both English and Spanish;

(ii) appears in contrasting colors with block letters at least one inch in height; and

(iii) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(d) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed $200, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication described by Subsection (b) and subsequently failed to depart.

(e) It is an exception to the application of this section that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited
from carrying the handgun under Section 46.03 or 46.035.

(f) It is not a defense to prosecution under this section that the handgun was carried in a shoulder or belt holster.

(g) It is a defense to prosecution under this section that the license holder is volunteer emergency services personnel, as defined by Section 46.01.

Added by Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 44, eff. January 1, 2016.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1143 (H.B. 435), Sec. 9, eff. September 1, 2017.
Sec. 31.01. DEFINITIONS. In this chapter:

(1) "Deception" means:

(A) creating or confirming by words or conduct a false impression of law or fact that is likely to affect the judgment of another in the transaction, and that the actor does not believe to be true;

(B) failing to correct a false impression of law or fact that is likely to affect the judgment of another in the transaction, that the actor previously created or confirmed by words or conduct, and that the actor does not now believe to be true;

(C) preventing another from acquiring information likely to affect his judgment in the transaction;

(D) selling or otherwise transferring or encumbering property without disclosing a lien, security interest, adverse claim, or other legal impediment to the enjoyment of the property, whether the lien, security interest, claim, or impediment is or is not valid, or is or is not a matter of official record; or

(E) promising performance that is likely to affect the judgment of another in the transaction and that the actor does not intend to perform or knows will not be performed, except that failure to perform the promise in issue without other evidence of intent or knowledge is not sufficient proof that the actor did not intend to perform or knew the promise would not be performed.

(2) "Deprive" means:

(A) to withhold property from the owner permanently or for so extended a period of time that a major portion of the value or enjoyment of the property is lost to the owner;

(B) to restore property only upon payment of reward or other compensation; or

(C) to dispose of property in a manner that makes recovery of the property by the owner unlikely.

(3) "Effective consent" includes consent by a person
legally authorized to act for the owner. Consent is not effective if:

(A) induced by deception or coercion;
(B) given by a person the actor knows is not legally authorized to act for the owner;
(C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable property dispositions;
(D) given solely to detect the commission of an offense; or
(E) given by a person who by reason of advanced age is known by the actor to have a diminished capacity to make informed and rational decisions about the reasonable disposition of property.

(4) "Appropriate" means:
(A) to bring about a transfer or purported transfer of title to or other nonpossessory interest in property, whether to the actor or another; or
(B) to acquire or otherwise exercise control over property other than real property.

(5) "Property" means:
(A) real property;
(B) tangible or intangible personal property including anything severed from land; or
(C) a document, including money, that represents or embodies anything of value.

(6) "Service" includes:
(A) labor and professional service;
(B) telecommunication, public utility, or transportation service;
(C) lodging, restaurant service, and entertainment; and
(D) the supply of a motor vehicle or other property for use.

(7) "Steal" means to acquire property or service by theft.

(8) "Certificate of title" has the meaning assigned by
Section 501.002, Transportation Code.

(9) "Used or secondhand motor vehicle" means a used motor vehicle, as that term is defined by Section 501.002, Transportation Code.

(10) "Elderly individual" has the meaning assigned by Section 22.04(c).

(11) "Retail merchandise" means one or more items of tangible personal property displayed, held, stored, or offered for sale in a retail establishment.

(12) "Retail theft detector" means an electrical, mechanical, electronic, or magnetic device used to prevent or detect shoplifting and includes any article or component part essential to the proper operation of the device.

(13) "Shielding or deactivation instrument" means any item or tool designed, made, or adapted for the purpose of preventing the detection of stolen merchandise by a retail theft detector. The term includes a metal-lined or foil-lined shopping bag and any item used to remove a security tag affixed to retail merchandise.

(14) "Fire exit alarm" has the meaning assigned by Section 793.001, Health and Safety Code.


Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 323 (H.B. 2482), Sec. 1, eff. September 1, 2011.

Sec. 31.02. CONSOLIDATION OF THEFT OFFENSES. Theft as defined in Section 31.03 constitutes a single offense superseding the separate offenses previously known as theft, theft by false pretext, conversion by a bailee, theft from the person, shoplifting, acquisition of property by threat, swindling, swindling by worthless check, embezzlement, extortion, receiving
or concealing embezzled property, and receiving or concealing stolen property.


Sec. 31.03. THEFT. (a) A person commits an offense if he unlawfully appropriates property with intent to deprive the owner of property.

(b) Appropriation of property is unlawful if:

(1) it is without the owner's effective consent;

(2) the property is stolen and the actor appropriates the property knowing it was stolen by another; or

(3) property in the custody of any law enforcement agency was explicitly represented by any law enforcement agent to the actor as being stolen and the actor appropriates the property believing it was stolen by another.

(c) For purposes of Subsection (b):

(1) evidence that the actor has previously participated in recent transactions other than, but similar to, that which the prosecution is based is admissible for the purpose of showing knowledge or intent and the issues of knowledge or intent are raised by the actor's plea of not guilty;

(2) the testimony of an accomplice shall be corroborated by proof that tends to connect the actor to the crime, but the actor's knowledge or intent may be established by the uncorroborated testimony of the accomplice;

(3) an actor engaged in the business of buying and selling used or secondhand personal property, or lending money on the security of personal property deposited with the actor, is presumed to know upon receipt by the actor of stolen property (other than a motor vehicle subject to Chapter 501, Transportation Code) that the property has been previously stolen from another if the actor pays for or loans against the property $25 or more (or consideration of equivalent value) and the actor knowingly or recklessly:

(A) fails to record the name, address, and
physical description or identification number of the seller or pledgor;

(B) fails to record a complete description of the property, including the serial number, if reasonably available, or other identifying characteristics; or

(C) fails to obtain a signed warranty from the seller or pledgor that the seller or pledgor has the right to possess the property. It is the express intent of this provision that the presumption arises unless the actor complies with each of the numbered requirements;

(4) for the purposes of Subdivision (3)(A), "identification number" means driver's license number, military identification number, identification certificate, or other official number capable of identifying an individual;

(5) stolen property does not lose its character as stolen when recovered by any law enforcement agency;

(6) an actor engaged in the business of obtaining abandoned or wrecked motor vehicles or parts of an abandoned or wrecked motor vehicle for resale, disposal, scrap, repair, rebuilding, demolition, or other form of salvage is presumed to know on receipt by the actor of stolen property that the property has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to maintain an accurate and legible inventory of each motor vehicle component part purchased by or delivered to the actor, including the date of purchase or delivery, the name, age, address, sex, and driver's license number of the seller or person making the delivery, the license plate number of the motor vehicle in which the part was delivered, a complete description of the part, and the vehicle identification number of the motor vehicle from which the part was removed, or in lieu of maintaining an inventory, fails to record the name and certificate of inventory number of the person who dismantled the motor vehicle from which the part was obtained;

(B) fails on receipt of a motor vehicle to obtain a certificate of authority, sales receipt, or transfer document as required by Chapter 683, Transportation Code, or a certificate of
title showing that the motor vehicle is not subject to a lien or that all recorded liens on the motor vehicle have been released; or

(C) fails on receipt of a motor vehicle to immediately remove an unexpired license plate from the motor vehicle, to keep the plate in a secure and locked place, or to maintain an inventory, on forms provided by the Texas Department of Motor Vehicles, of license plates kept under this paragraph, including for each plate or set of plates the license plate number and the make, motor number, and vehicle identification number of the motor vehicle from which the plate was removed;

(7) an actor who purchases or receives a used or secondhand motor vehicle is presumed to know on receipt by the actor of the motor vehicle that the motor vehicle has been previously stolen from another if the actor knowingly or recklessly:

(A) fails to report to the Texas Department of Motor Vehicles the failure of the person who sold or delivered the motor vehicle to the actor to deliver to the actor a properly executed certificate of title to the motor vehicle at the time the motor vehicle was delivered; or

(B) fails to file with the county tax assessor-collector of the county in which the actor received the motor vehicle, not later than the 20th day after the date the actor received the motor vehicle, the registration license receipt and certificate of title or evidence of title delivered to the actor in accordance with Subchapter D, Chapter 520, Transportation Code, at the time the motor vehicle was delivered;

(8) an actor who purchases or receives from any source other than a licensed retailer or distributor of pesticides a restricted-use pesticide or a state-limited-use pesticide or a compound, mixture, or preparation containing a restricted-use or state-limited-use pesticide is presumed to know on receipt by the actor of the pesticide or compound, mixture, or preparation that the pesticide or compound, mixture, or preparation has been previously stolen from another if the actor:

(A) fails to record the name, address, and physical description of the seller or pledgor;

(B) fails to record a complete description of the
amount and type of pesticide or compound, mixture, or preparation purchased or received; and

(C) fails to obtain a signed warrantly from the seller or pledgor that the seller or pledgor has the right to possess the property; and

(9) an actor who is subject to Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b), that obtains livestock from a commission merchant by representing that the actor will make prompt payment is presumed to have induced the commission merchant's consent by deception if the actor fails to make full payment in accordance with Section 409, Packers and Stockyards Act (7 U.S.C. Section 228b).

(d) It is not a defense to prosecution under this section that:

(1) the offense occurred as a result of a deception or strategy on the part of a law enforcement agency, including the use of an undercover operative or peace officer;

(2) the actor was provided by a law enforcement agency with a facility in which to commit the offense or an opportunity to engage in conduct constituting the offense; or

(3) the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense, but would not encourage a person not predisposed to commit the offense to actually commit the offense.

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than $100;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is $100 or more but less than $750;

(B) the value of the property stolen is less than $100 and the defendant has previously been convicted of any grade of theft; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification
certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is $750 or more but less than $2,500;

(4) a state jail felony if:

(A) the value of the property stolen is $2,500 or more but less than $30,000, or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of $30,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than $2,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than $20,000 and the property stolen is:

   (i) aluminum;

   (ii) bronze;

   (iii) copper; or

   (iv) brass;

(5) a felony of the third degree if the value of the property stolen is $30,000 or more but less than $150,000, or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than $150,000;

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than $150,000; or

(C) a controlled substance, having a value of less than $150,000, if stolen from:

   (i) a commercial building in which a
controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; or

(ii) a vehicle owned or operated by a wholesale distributor of prescription drugs;

(6) a felony of the second degree if:

(A) the value of the property stolen is $150,000 or more but less than $300,000; or

(B) the value of the property stolen is less than $300,000 and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or

(7) a felony of the first degree if the value of the property stolen is $300,000 or more.

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship;

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization;

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship;

or

(5) during the commission of the offense, the actor intentionally, knowingly, or recklessly:

(A) caused a fire exit alarm to sound or otherwise become activated;

(B) deactivated or otherwise prevented a fire
exit alarm or retail theft detector from sounding; or

(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector.

(g) For the purposes of Subsection (a), a person is the owner of exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, only if the person qualifies to claim the animal under Section 142.0021, Agriculture Code, if the animal is an estray.

(h) In this section:

(1) "Restricted-use pesticide" means a pesticide classified as a restricted-use pesticide by the administrator of the Environmental Protection Agency under 7 U.S.C. Section 136a, as that law existed on January 1, 1995, and containing an active ingredient listed in the federal regulations adopted under that law (40 C.F.R. Section 152.175) and in effect on that date.

(2) "State-limited-use pesticide" means a pesticide classified as a state-limited-use pesticide by the Department of Agriculture under Section 76.003, Agriculture Code, as that section existed on January 1, 1995, and containing an active ingredient listed in the rules adopted under that section (4 TAC Section 7.24) as that section existed on that date.

(3) "Nonprofit organization" means an organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being described as an exempt organization by Section 501(c)(3) of that code.

(4) "Automated teller machine" means an unstaffed electronic information processing device that, at the request of a user, performs a financial transaction through the direct transmission of electronic impulses to a financial institution or through the recording of electronic impulses or other indicia of a transaction for delayed transmission to a financial institution. The term includes an automated banking machine.

(5) "Controlled substance" has the meaning assigned by Section 481.002, Health and Safety Code.

(6) "Wholesale distributor of prescription drugs" means a wholesale distributor, as defined by Section 431.401,
Health and Safety Code.

(i) For purposes of Subsection (c)(9), "livestock" and "commission merchant" have the meanings assigned by Section 147.001, Agriculture Code.

(j) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.


Amended by:

Acts 2007, 80th Leg., R.S., Ch. 304 (H.B. 1766), Sec. 1, eff.
September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 70 (H.B. 1282), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 105 (H.B. 1466), Sec. 1, eff. May 23, 2009.
Acts 2009, 81st Leg., R.S., Ch. 139 (S.B. 1163), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 295 (H.B. 348), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 903 (H.B. 671), Sec. 1, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 903 (H.B. 671), Sec. 2, eff. September 1, 2009.
Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3J.01, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 120 (S.B. 887), Sec. 1, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 120 (S.B. 887), Sec. 2, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 323 (H.B. 2482), Sec. 2, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 21, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 10, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 338 (H.B. 1178), Sec. 4, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 338 (H.B. 1178), Sec. 5, eff. September 1, 2017.

Sec. 31.04. THEFT OF SERVICE. (a) A person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation:

(1) the actor intentionally or knowingly secures performance of the service by deception, threat, or false token;

(2) having control over the disposition of services of another to which the actor is not entitled, the actor intentionally
or knowingly diverts the other's services to the actor's own benefit or to the benefit of another not entitled to the services;

(3) having control of personal property under a written rental agreement, the actor holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, thereby depriving the owner of the property of its use in further rentals; or

(4) the actor intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make full payment after receiving notice demanding payment.

(b) For purposes of this section, intent to avoid payment is presumed if:

(1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational vehicle parks, restaurants, and comparable establishments;

(2) the actor failed to make payment under a service agreement within 10 days after receiving notice demanding payment;

(3) the actor returns property held under a rental agreement after the expiration of the rental agreement and fails to pay the applicable rental charge for the property within 10 days after the date on which the actor received notice demanding payment; or

(4) the actor failed to return the property held under a rental agreement:

(A) within five days after receiving notice demanding return, if the property is valued at less than $2,500; or

(B) within three days after receiving notice demanding return, if the property is valued at $2,500 or more.

(c) For purposes of Subsections (a)(4), (b)(2), and (b)(4), notice shall be notice in writing, sent by registered or certified mail with return receipt requested or by telegram with report of delivery requested, and addressed to the actor at his address shown on the rental agreement or service agreement.

(d) If written notice is given in accordance with Subsection
(c), it is presumed that the notice was received no later than five
days after it was sent.

(d-1) For purposes of Subsection (a)(4):

(1) if the compensation is or was to be paid on a
periodic basis, the intent to avoid payment for a service may be
formed at any time during or before a pay period; and

(2) the partial payment of wages alone is not
sufficient evidence to negate the actor's intent to avoid payment
for a service.

(e) An offense under this section is:

(1) a Class C misdemeanor if the value of the service
stolen is less than $100;

(2) a Class B misdemeanor if the value of the service
stolen is $100 or more but less than $750;

(3) a Class A misdemeanor if the value of the service
stolen is $750 or more but less than $2,500;

(4) a state jail felony if the value of the service
stolen is $2,500 or more but less than $30,000;

(5) a felony of the third degree if the value of the
service stolen is $30,000 or more but less than $150,000;

(6) a felony of the second degree if the value of the
service stolen is $150,000 or more but less than $300,000; or

(7) a felony of the first degree if the value of the
service stolen is $300,000 or more.

(f) Notwithstanding any other provision of this code, any
police or other report of stolen vehicles by a political
subdivision of this state shall include on the report any rental
vehicles whose renters have been shown to such reporting agency to
be in violation of Subsection (b)(2) and shall indicate that the
renting agency has complied with the notice requirements demanding
return as provided in this section.

(g) It is a defense to prosecution under this section that:

(1) the defendant secured the performance of the
service by giving a post-dated check or similar sight order to the
person performing the service; and

(2) the person performing the service or any other
person presented the check or sight order for payment before the
date on the check or sight order.
Amended by Acts 1977, 65th Leg., p. 1138, ch. 429, Sec. 1, eff. Aug.
29, 1977; Acts 1983, 68th Leg., p. 2920, ch. 497, Sec. 4, eff. Sept.
1, 1983; Acts 1991, 72nd Leg., ch. 565, Sec. 15, eff. Sept. 1, 1991;
Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts
1995, 74th Leg., ch. 479, Sec. 1, eff. Aug. 28, 1995; Acts 1999,
76th Leg., ch. 843, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th
Leg., ch. 1245, Sec. 1, 2, eff. Sept. 1, 2001; Acts 2003, 78th Leg.,
ch. 419, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 141 (S.B. 1024), Sec. 1, eff.
September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 11,
eff. September 1, 2015.

Sec. 31.05. THEFT OF TRADE SECRETS. (a) For purposes of
this section:

(1) "Article" means any object, material, device, or
substance or any copy thereof, including a writing, recording,
drawing, sample, specimen, prototype, model, photograph,
microorganism, blueprint, or map:

(2) "Copy" means a facsimile, replica, photograph, or
other reproduction of an article or a note, drawing, or sketch made
of or from an article.

(3) "Representing" means describing, depicting,
containing, constituting, reflecting, or recording.

(4) "Trade secret" means the whole or any part of any
scientific or technical information, design, process, procedure,
formula, or improvement that has value and that the owner has taken
measures to prevent from becoming available to persons other than
those selected by the owner to have access for limited purposes.

(b) A person commits an offense if, without the owner's
effective consent, he knowingly:

(1) steals a trade secret;

(2) makes a copy of an article representing a trade
secret; or
(3) communicates or transmits a trade secret.

(c) An offense under this section is a felony of the third degree.


Sec. 31.06. PRESUMPTION FOR THEFT BY CHECK OR SIMILAR SIGHT ORDER. (a) If the actor obtained property or secured performance of service by issuing or passing a check or similar sight order for the payment of money, when the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the issuer's intent to deprive the owner of property under Section 31.03 (Theft) including a drawee or third-party holder in due course who negotiated the check or order or to avoid payment for service under Section 31.04 (Theft of Service) (except in the case of a postdated check or order) if:

(1) the issuer had no account with the bank or other drawee at the time the issuer issued the check or sight order; or

(2) payment was refused by the bank or other drawee for lack of funds or insufficient funds, on presentation within 30 days after issue, and the issuer failed to pay the holder in full within 10 days after receiving notice of that refusal.

(b) For purposes of Subsection (a)(2) or (f)(3), notice may be actual notice or notice in writing that:

(1) is sent by:

(A) first class mail, evidenced by an affidavit of service; or

(B) registered or certified mail with return receipt requested;

(2) is addressed to the issuer at the issuer's address shown on:

(A) the check or order;

(B) the records of the bank or other drawee; or

(C) the records of the person to whom the check or
order has been issued or passed; and

(3) contains the following statement:

"This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution."

(c) If written notice is given in accordance with Subsection (b), it is presumed that the notice was received no later than five days after it was sent.

(d) Nothing in this section prevents the prosecution from establishing the requisite intent by direct evidence.

(e) Partial restitution does not preclude the presumption of the requisite intent under this section.

(f) If the actor obtained property by issuing or passing a check or similar sight order for the payment of money, the actor's intent to deprive the owner of the property under Section 31.03 (Theft) is presumed, except in the case of a postdated check or order, if:

(1) the actor ordered the bank or other drawee to stop payment on the check or order;

(2) the bank or drawee refused payment to the holder on presentation of the check or order within 30 days after issue;

(3) the owner gave the actor notice of the refusal of payment and made a demand to the actor for payment or return of the property; and

(4) the actor failed to:

(A) pay the holder within 10 days after receiving the demand for payment; or

(B) return the property to the owner within 10 days after receiving the demand for return of the property.

Acts 2007, 80th Leg., R.S., Ch. 976 (S.B. 548), Sec. 1, eff. September 1, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 128 (S.B. 821), Sec. 1, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 128 (S.B. 821), Sec. 2, eff. September 1, 2013.

Sec. 31.07. UNAUTHORIZED USE OF A VEHICLE. (a) A person commits an offense if he intentionally or knowingly operates another's boat, airplane, or motor-propelled vehicle without the effective consent of the owner.

(b) An offense under this section is a state jail felony.


Sec. 31.08. VALUE. (a) Subject to the additional criteria of Subsections (b) and (c), value under this chapter is:

(1) the fair market value of the property or service at the time and place of the offense; or

(2) if the fair market value of the property cannot be ascertained, the cost of replacing the property within a reasonable time after the theft.

(b) The value of documents, other than those having a readily ascertainable market value, is:

(1) the amount due and collectible at maturity less that part which has been satisfied, if the document constitutes evidence of a debt; or

(2) the greatest amount of economic loss that the owner might reasonably suffer by virtue of loss of the document, if the document is other than evidence of a debt.

(c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b), the property or service is deemed to have a value of $750 or more but less than $2,500.

(d) If the actor proves by a preponderance of the evidence that he gave consideration for or had a legal interest in the
property or service stolen, the amount of the consideration or the value of the interest so proven shall be deducted from the value of the property or service ascertained under Subsection (a), (b), or (c) to determine value for purposes of this chapter.


Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 12, eff. September 1, 2015.

Sec. 31.09. AGGREGATION OF AMOUNTS INVOLVED IN THEFT. When amounts are obtained in violation of this chapter pursuant to one scheme or continuing course of conduct, whether from the same or several sources, the conduct may be considered as one offense and the amounts aggregated in determining the grade of the offense.


Sec. 31.10. ACTOR'S INTEREST IN PROPERTY. It is no defense to prosecution under this chapter that the actor has an interest in the property or service stolen if another person has the right of exclusive possession of the property.


Sec. 31.11. TAMPERING WITH IDENTIFICATION NUMBERS. (a) A person commits an offense if the person:

(1) knowingly or intentionally removes, alters, or obliterates the serial number or other permanent identification marking on tangible personal property; or

(2) possesses, sells, or offers for sale tangible personal property and:

(A) the actor knows that the serial number or
other permanent identification marking has been removed, altered, or obliterated; or

(B) a reasonable person in the position of the actor would have known that the serial number or other permanent identification marking has been removed, altered, or obliterated.

(b) It is an affirmative defense to prosecution under this section that the person was:

(1) the owner or acting with the effective consent of the owner of the property involved;

(2) a peace officer acting in the actual discharge of official duties; or

(3) acting with respect to a number assigned to a vehicle by the Texas Department of Transportation or the Texas Department of Motor Vehicles, as applicable, and the person was:

(A) in the actual discharge of official duties as an employee or agent of the department; or

(B) in full compliance with the rules of the department as an applicant for an assigned number approved by the department.

(c) Property involved in a violation of this section may be treated as stolen for purposes of custody and disposition of the property.

(d) An offense under this section is a Class A misdemeanor.

(e) In this section, "vehicle" has the meaning given by Section 541.201, Transportation Code.


Amended by:

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. 3097), Sec. 3J.02, eff. September 1, 2009.

Sec. 31.12. THEFT OF OR TAMPERING WITH MULTICHANNEL VIDEO OR INFORMATION SERVICES. (a) A person commits an offense if,
without the authorization of the multichannel video or information services provider, the person intentionally or knowingly:

(1) makes or maintains a connection, whether physically, electrically, electronically, or inductively, to:

(A) a cable, wire, or other component of or media attached to a multichannel video or information services system; or

(B) a television set, videotape recorder, or other receiver attached to a multichannel video or information system;

(2) attaches, causes to be attached, or maintains the attachment of a device to:

(A) a cable, wire, or other component of or media attached to a multichannel video or information services system; or

(B) a television set, videotape recorder, or other receiver attached to a multichannel video or information services system;

(3) tampers with, modifies, or maintains a modification to a device installed by a multichannel video or information services provider; or

(4) tampers with, modifies, or maintains a modification to an access device or uses that access device or any unauthorized access device to obtain services from a multichannel video or information services provider.

(b) In this section:

(1) "Access device," "connection," and "device" mean an access device, connection, or device wholly or partly designed to make intelligible an encrypted, encoded, scrambled, or other nonstandard signal carried by a multichannel video or information services provider.

(2) "Encrypted, encoded, scrambled, or other nonstandard signal" means any type of signal or transmission not intended to produce an intelligible program or service without the use of a device, signal, or information provided by a multichannel video or information services provider.

(3) "Multichannel video or information services
provider" means a licensed cable television system, video dialtone system, multichannel multipoint distribution services system, direct broadcast satellite system, or other system providing video or information services that are distributed by cable, wire, radio frequency, or other media.

(c) This section does not prohibit the manufacture, distribution, sale, or use of satellite receiving antennas that are otherwise permitted by state or federal law.

(d) An offense under this section is a Class C misdemeanor unless it is shown on the trial of the offense that the actor:

(1) has been previously convicted one time of an offense under this section, in which event the offense is a Class B misdemeanor, or convicted two or more times of an offense under this section, in which event the offense is a Class A misdemeanor; or

(2) committed the offense for remuneration, in which event the offense is a Class A misdemeanor, unless it is also shown on the trial of the offense that the actor has been previously convicted two or more times of an offense under this section, in which event the offense is a Class A misdemeanor with a minimum fine of $2,000 and a minimum term of confinement of 180 days.

(e) For the purposes of this section, each connection, attachment, modification, or act of tampering is a separate offense.


Sec. 31.13. MANUFACTURE, DISTRIBUTION, OR ADVERTISEMENT OF MULTICHANNEL VIDEO OR INFORMATION SERVICES DEVICE. (a) A person commits an offense if the person for remuneration intentionally or knowingly manufactures, assembles, modifies, imports into the state, exports out of the state, distributes, advertises, or offers for sale, with an intent to aid in the commission of an offense under Section 31.12, a device, a kit or part for a device, or a plan for a system of components wholly or partly designed to make intelligible an encrypted, encoded, scrambled, or other nonstandard signal carried or caused by a multichannel video or
information services provider.

(b) In this section, "device," "encrypted, encoded, scrambled, or other nonstandard signal," and "multichannel video or information services provider" have the meanings assigned by Section 31.12.

(c) This section does not prohibit the manufacture, distribution, advertisement, offer for sale, or use of satellite receiving antennas that are otherwise permitted by state or federal law.

(d) An offense under this section is a Class A misdemeanor.


Sec. 31.14. SALE OR LEASE OF MULTICHANNEL VIDEO OR INFORMATION SERVICES DEVICE. (a) A person commits an offense if the person intentionally or knowingly sells or leases, with an intent to aid in the commission of an offense under Section 31.12, a device, a kit or part for a device, or a plan for a system of components wholly or partly designed to make intelligible an encrypted, encoded, scrambled, or other nonstandard signal carried or caused by a multichannel video or information services provider.

(b) In this section, "device," "encrypted, encoded, scrambled, or other nonstandard signal," and "multichannel video or information services provider" have the meanings assigned by Section 31.12.

(c) This section does not prohibit the sale or lease of satellite receiving antennas that are otherwise permitted by state or federal law without providing notice to the comptroller.

(d) An offense under this section is a Class A misdemeanor.

Added by Acts 1999, 76th Leg., ch. 858, Sec. 3, eff. Sept. 1, 1999.

Sec. 31.15. POSSESSION, MANUFACTURE, OR DISTRIBUTION OF CERTAIN INSTRUMENTS USED TO COMMIT RETAIL THEFT.

(a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 323, Sec. 4, eff. September 1, 2011.

(b) A person commits an offense if, with the intent to use
the instrument to commit theft, the person:

(1) possesses a shielding or deactivation instrument;

or

(2) knowingly manufactures, sells, offers for sale, or otherwise distributes a shielding or deactivation instrument.

(c) An offense under this section is a Class A misdemeanor.


Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 323 (H.B. 2482), Sec. 4, eff. September 1, 2011.

Sec. 31.16. ORGANIZED RETAIL THEFT. (a) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 323, Sec. 4, eff. September 1, 2011.

(b) A person commits an offense if the person intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of:

(1) stolen retail merchandise; or

(2) merchandise explicitly represented to the person as being stolen retail merchandise.

(c) An offense under this section is:

(1) a Class C misdemeanor if the total value of the merchandise involved in the activity is less than $100;

(2) a Class B misdemeanor if the total value of the merchandise involved in the activity is $100 or more but less than $750;

(3) a Class A misdemeanor if the total value of the merchandise involved in the activity is $750 or more but less than $2,500;

(4) a state jail felony if the total value of the merchandise involved in the activity is $2,500 or more but less than $30,000;

(5) a felony of the third degree if the total value of the merchandise involved in the activity is $30,000 or more but less than $150,000;

(6) a felony of the second degree if the total value of the merchandise involved in the activity is $150,000 or more but
less than $300,000; or

(7) a felony of the first degree if the total value of the merchandise involved in the activity is $300,000 or more.

(d) An offense described for purposes of punishment by Subsections (c)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b); or

(2) during the commission of the offense, a person engaged in an activity described by Subsection (b) intentionally, knowingly, or recklessly:

(A) caused a fire exit alarm to sound or otherwise become activated;

(B) deactivating or otherwise prevented a fire exit alarm or retail theft detector from sounding; or

(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector.

(e) Repealed by Acts 2011, 82nd Leg., R.S., Ch. 323, Sec. 4, eff. September 1, 2011.

Added by Acts 2007, 80th Leg., R.S., Ch. 1274 (H.B. 3584), Sec. 1, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 323 (H.B. 2482), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 323 (H.B. 2482), Sec. 4, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. 1396), Sec. 13, eff. September 1, 2015.

Sec. 31.17. UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. (a) In this section:

(1) "Check" has the meaning assigned by Section 3.104, Business & Commerce Code.

(2) "Credit card" and "debit card" have the meanings assigned by Section 32.31.
(3) "Financial sight order or payment card information" means financial information that is:
(A) contained on either side of a check or similar sight order, check card, debit card, or credit card; or
(B) encoded on the magnetic strip or stripe of a check card, debit card, or credit card.

(b) A person commits an offense if the person, knowing that the person is not entitled to obtain or possess that financial information:
(1) obtains the financial sight order or payment card information of another by use of an electronic, photographic, visual imaging, recording, or other device capable of accessing, reading, recording, capturing, copying, imaging, scanning, reproducing, or storing in any manner the financial sight order or payment card information; or
(2) transfers to a third party information obtained as described by Subdivision (1).

(c) An offense under Subsection (b)(1) is a Class B misdemeanor. An offense under Subsection (b)(2) is a Class A misdemeanor.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

Added by Acts 2011, 82nd Leg., R.S., Ch. 260 (H.B. 1215), Sec. 1, eff. September 1, 2011.

Sec. 31.18. CARGO THEFT. (a) In this section:
(1) "Cargo" means goods, as defined by Section 7.102, Business & Commerce Code, that constitute, wholly or partly, a commercial shipment of freight moving in commerce. A shipment is considered to be moving in commerce if the shipment is located at any point between the point of origin and the final point of destination regardless of any temporary stop that is made for the purpose of transshipment or otherwise.

(2) "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(b) A person commits an offense if the person:
(1) knowingly or intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, abandons, or disposes of:
   (A) stolen cargo; or
   (B) cargo explicitly represented to the person as being stolen cargo; or

(2) is employed as a driver lawfully contracted to transport a specific cargo by vehicle from a known point of origin to a known point of destination and, with the intent to conduct, promote, or facilitate an activity described by Subdivision (1), knowingly or intentionally:
   (A) fails to deliver the entire cargo to the known point of destination as contracted; or
   (B) causes the seal to be broken on the vehicle or on an intermodal container containing any part of the cargo.

(c) An offense under this section is:
   (1) a state jail felony if the total value of the cargo involved in the activity is $1,500 or more but less than $10,000;
   (2) a felony of the third degree if the total value of the cargo involved in the activity is $10,000 or more but less than $100,000;
   (3) a felony of the second degree if the total value of the cargo involved in the activity is $100,000 or more but less than $200,000; or
   (4) a felony of the first degree if the total value of the cargo involved in the activity is $200,000 or more.

(d) For purposes of Subsection (c), the total value of the cargo involved in the activity includes the value of any vehicle stolen or damaged in the course of the same criminal episode as the conduct that is the subject of the prosecution.

(e) An offense described for purposes of punishment by Subsections (c)(1)-(3) is increased to the next higher category of offense if it is shown on the trial of the offense that the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b).

(f) It is not a defense to prosecution under this section that:
(1) the offense occurred as a result of a deception or strategy on the part of a law enforcement agency, including the use of:

   (A) an undercover operative or peace officer; or
   (B) a bait vehicle;

(2) the actor was provided by a law enforcement agency with a facility in which to commit the offense or with an opportunity to engage in conduct constituting the offense; or

(3) the actor was solicited to commit the offense by a peace officer, and the solicitation was of a type that would encourage a person predisposed to commit the offense to actually commit the offense but would not encourage a person not predisposed to commit the offense to actually commit the offense.

Added by Acts 2015, 84th Leg., R.S., Ch. 1219 (S.B. 1828), Sec. 3, eff. September 1, 2015.
Amended by:

   Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 15.001, eff. September 1, 2017.

Sec. 31.19. THEFT OF PETROLEUM PRODUCT. (a) In this section, "petroleum product" means crude oil, natural gas, or condensate.

(b) A person commits an offense if the person unlawfully appropriates a petroleum product with intent to deprive the owner of the petroleum product by:

   (1) possessing, removing, delivering, receiving, purchasing, selling, moving, concealing, or transporting the petroleum product; or

   (2) making or causing a connection to be made with, or drilling or tapping or causing a hole to be drilled or tapped in, a pipe, pipeline, or tank used to store or transport a petroleum product.

(c) Appropriation of a petroleum product is unlawful if it is without the owner's effective consent.

(d) An offense under this section is:

   (1) a state jail felony if the total value of the petroleum product appropriated is less than $10,000;
(2) a felony of the third degree if the total value of the petroleum product appropriated is $10,000 or more but less than $100,000;

(3) a felony of the second degree if the total value of the petroleum product appropriated is $100,000 or more but less than $300,000; or

(4) a felony of the first degree if the total value of the petroleum product appropriated is $300,000 or more.

Added by Acts 2017, 85th Leg., R.S., Ch. 46 (S.B. 1871), Sec. 1, eff. September 1, 2017.