



# **TEXAS LICENSE TO CARRY A HANDGUN STATUTE & SELECTED LAWS**



RELATING TO THE USE AND CARRYING OF A HANDGUN

## **2023-2024 Edition**

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# GOVERNMENT CODE

## CHAPTER 411 DEPARTMENT OF PUBLIC SAFETY OF THE STATE OF TEXAS

### SUBCHAPTER A

#### GENERAL PROVISIONS AND ADMINISTRATIVE DIVISION

##### **Sec. 411.02096. REPORT REGARDING CERTAIN FIREARM STATISTICS.**

(a) Not later than January 31 of each year, the department shall collect information for the preceding calendar year related to the carrying of firearms by persons in this state, including:

(1) the number of persons who applied for a license to carry a handgun under Subchapter H compared to the yearly average number of people who applied for a license from 2010 through 2020; and

(2) any other relevant information related to the carrying of firearms by persons in this state.

(b) The department shall identify the entities that possess information required by Subsection (a) and require each entity to report the information to the department in the manner prescribed by the department.

(c) Not later than February 1 of each year, the department shall prepare and submit to the governor, the lieutenant governor, and each member of the legislature a report that includes the information described by Subsection (a).

(d) This section expires September 1, 2028.

##### **Sec. 411.02097. FIREARM SAFETY.**

The department shall develop and post on the department's Internet website a course on firearm safety and handling. The course must be accessible to the public free of charge.

### SUBCHAPTER D

#### ADMINISTRATIVE DIVISION

##### **Sec. 411.047. REPORTING RELATED TO CERTAIN HANDGUN INCIDENTS INVOLVING LICENSE HOLDERS.**



(a) The department may maintain statistics on its website related to responses by law enforcement agencies to incidents in which a person licensed to carry a handgun under Subchapter H is convicted of an offense only if the offense is prohibited under Subchapter H or under Title 5, Chapter 29, Chapter 46, or Section 30.02, Penal Code.

(b) Such statistics shall be drawn and reported annually from the Department of Public Safety computerized criminal history file on persons 21 years of age and older and shall be compared in numerical and graphical format to all like offenses committed in the state for the reporting period as a percentage of the total of such reported offenses.

(c) The department by rule shall adopt procedures for local law enforcement to make reports to the department described by Subsection (a).

#### **Sec. 411.052. FEDERAL FIREARM REPORTING.**

(a) In this section, "federal prohibited person information" means information that identifies:

(1) an individual who is at least 16 years of age as:

(A) a person ordered by a court to receive inpatient mental health services under Chapter 574, Health and Safety Code;

(B) a person acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered by a court to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;

(C) a person determined to have an intellectual disability and committed by a court for long-term placement in a residential care facility under Chapter 593, Health and Safety Code; or

(D) a person determined to be incompetent to stand trial under Chapter 46B, Code of Criminal Procedure;

(2) a child who is at least 16 years of age and has been:

(A) found unfit to proceed under Subchapter C, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;

(B) found not responsible for the child's conduct under Subchapter D, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;

(C) ordered by a court to receive inpatient mental health services under Subchapter B, C, or D, Chapter 55, Family Code, as a result of mental illness; or

(D) committed by a court to a residential care facility under Subchapter C or D, Chapter 55, Family Code, as a result of an intellectual disability; or

(3) an incapacitated adult person for whom a court has appointed a guardian of the person under Title 3, Estates Code, based on the determination that the person lacks the mental capacity to manage the person's affairs.

(b) The department by rule shall establish a procedure to provide federal prohibited person information to the Federal Bureau of Investigation for use with the National Instant Criminal Background Check System. Except as otherwise provided by state law, the department may disseminate federal prohibited person information under this subsection only to the extent necessary to allow the Federal Bureau of Investigation to collect and maintain a list of persons who are prohibited under federal law from engaging in certain activities with respect to a firearm.

(c) The department shall grant access to federal prohibited person information to the person who is the subject of the information.

(d) Federal prohibited person information maintained by the department is confidential information for the use of the department and, except as otherwise provided by this section and other state law, may not be disseminated by the department.

(e) The department by rule shall establish a procedure to correct department records and transmit those corrected records to the Federal Bureau of Investigation when a person provides:

(1) a copy of a judicial order or finding that a person is no longer an incapacitated adult or is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(2) proof that the person has obtained notice of relief from disabilities under 18 U.S.C. Section 925.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. 446), Sec. 5.06, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 341 (S.B. 728), Sec. 1, eff. September 1, 2023.

**Sec. 411.0521. REPORT TO DEPARTMENT CONCERNING CERTAIN PERSONS' ACCESS TO FIREARMS.**

(a) The clerk of the court shall prepare and forward to the department the information described by Subsection (b) not later than the 30th day after the date the court:

(1) performs any of the following actions:

(A) with respect to an individual who is at least 16 years of age:

- (i) orders a person to receive inpatient mental health services under Chapter 574, Health and Safety Code;
- (ii) acquits a person in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person is ordered to receive inpatient treatment or residential care under Chapter 46C, Code of Criminal Procedure;
- (iii) commits a person determined to have an intellectual disability for long-term placement in a residential care facility under Chapter 593, Health and Safety Code;
- (iv) determines a person is incompetent to stand trial under Chapter 46B, Code of Criminal Procedure; or
- (v) finds a person is entitled to relief from disabilities under Section 574.088, Health and Safety Code; or

(B) with respect to a child who is at least 16 years of age:

- (i) finds a child unfit to proceed under Subchapter C, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;
- (ii) finds a child not responsible for the child's conduct under Subchapter D, Chapter 55, Family Code, as a result of mental illness or an intellectual disability;
- (iii) orders a child to receive inpatient mental health services under Subchapter B, C, or D, Chapter 55, Family Code, as a result of mental illness; or
- (iv) commits a child to a residential care facility under Subchapter C or D, Chapter 55, Family Code, as a result of an intellectual disability; or

(2) appoints a guardian of the incapacitated adult person under Title 3, Estates Code, based on the determination that the person lacks the mental capacity to manage the person's affairs.

(b) The clerk of the court shall prepare and forward the following information under Subsection (a):

- (1) the complete name, race, and sex of the person;
- (2) any known identifying number of the person, including social security number, driver's license number, or state identification number;
- (3) the person's date of birth; and
- (4) the federal prohibited person information that is the basis of the report required by this section.

(c) If practicable, the clerk of the court shall forward to the department the information described by Subsection (b) in an electronic format prescribed by the department.

(c-1) On request of the department, the clerk of the court shall forward a signed court order containing federal prohibited person information to the department for an audit of records provided to the Federal Bureau of Investigation under Section [411.052](#) for use with the National Instant Criminal Background Check System. If the department determines that a record forwarded under this subsection is incomplete or invalid:

- (1) the department shall notify the clerk of the court; and
- (2) the clerk of the court shall forward to the department any additional information or record.

(d) If an order previously reported to the department under Subsection (a) is reversed by order of any court, the clerk shall notify the department of the reversal not later than 30 days after the clerk receives the mandate from the appellate court.

(e) The duty of a clerk to prepare and forward information under this section is not affected by:

- (1) any subsequent appeal of the court order;
- (2) any subsequent modification of the court order; or
- (3) the expiration of the court order.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 30 (H.B. [446](#)), Sec. 5.07, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 341 (S.B. [728](#)), Sec. 2, eff. September 1, 2023.

## **SUBCHAPTER H**

### **LICENSE TO CARRY A HANDGUN**

#### **Sec. 411.171. DEFINITIONS.**

In this subchapter:

(1) "Approved online course provider" means a person who is certified by the department to offer in an online format the classroom instruction part of the handgun proficiency course and to administer the associated written exam.

(2) "Chemically dependent person" means a person who frequently or repeatedly becomes intoxicated by excessive indulgence in alcohol or uses controlled substances or dangerous drugs so as to acquire a fixed habit and an involuntary

tendency to become intoxicated or use those substances as often as the opportunity is presented.

(3) Repealed by Acts 2015, 84th Leg., R.S., Ch. 437 , Sec. 50, eff. January 1, 2016.

(4) "Convicted" means an adjudication of guilt or, except as provided in Section [411.1711](#), an order of deferred adjudication entered against a person by a court of competent jurisdiction whether or not the imposition of the sentence is subsequently probated and the person is discharged from community supervision. The term does not include an adjudication of guilt or an order of deferred adjudication that has been subsequently:

- (A) expunged;
- (B) pardoned under the authority of a state or federal official; or
- (C) otherwise vacated, set aside, annulled, invalidated, voided, or sealed under any state or federal law.

(4-a) "Federal judge" means:

- (A) a judge of a United States court of appeals;
- (B) a judge of a United States district court;
- (C) a judge of a United States bankruptcy court; or
- (D) a magistrate judge of a United States district court.

(4-b) "State judge" means:

- (A) the judge of an appellate court, a district court, or a county court at law of this state;
- (B) an associate judge appointed under Chapter [201](#), Family Code; or
- (C) a justice of the peace.

(5) "Handgun" has the meaning assigned by Section [46.01](#), Penal Code.

(6) "Intoxicated" has the meaning assigned by Section [49.01](#), Penal Code.

(7) "Qualified handgun instructor" means a person who is certified to instruct in the use of handguns by the department.

(8) Repealed by Acts 1999, 76th Leg., ch. 62, Sec. 9.02(a), eff. Sept. 1, 1999.

### **Sec. 411.1711. CERTAIN EXEMPTIONS FROM CONVICTIONS.**

A person is not convicted, as that term is defined by Section [411.171](#), if an order of deferred adjudication was entered against the person on a date not less than 10

years preceding the date of the person's application for a license under this subchapter unless the order of deferred adjudication was entered against the person for:

(1) a felony offense under:

(A) Title 5, Penal Code;

(B) Chapter 29, Penal Code;

(C) Section 25.07 or 25.072, Penal Code; or

(D) Section 30.02, Penal Code, if the offense is punishable under

Subsection (c)(2) or (d) of that section; or

(2) an offense under the laws of another state if the offense contains elements that are substantially similar to the elements of an offense listed in Subdivision (1).

**Sec. 411.172. ELIGIBILITY.**

(a) A person is eligible for a license to carry a handgun if the person:

(1) is a legal resident of this state for the six-month period preceding the date of application under this subchapter or is otherwise eligible for a license under Section 411.173(a);

(2) is at least 21 years of age;

(3) has not been convicted of a felony;

(4) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(5) is not a fugitive from justice for a felony or a Class A or Class B misdemeanor or equivalent offense;

(6) is not a chemically dependent person;

(7) is not incapable of exercising sound judgment with respect to the proper use and storage of a handgun;

(8) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense or of an offense under Section 42.01, Penal Code, or equivalent offense;

(9) is fully qualified under applicable federal and state law to purchase a handgun;

(10) has not been finally determined to be delinquent in making a child support payment administered or collected by the attorney general;

(11) has not been finally determined to be delinquent in the payment of a tax or other money collected by the comptroller, the tax collector of a political subdivision of the state, or any agency or subdivision of the state;

(12) is not currently restricted under a court protective order or subject to a restraining order affecting the spousal relationship, other than a restraining order solely affecting property interests;

(13) has not, in the 10 years preceding the date of application, been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony; and

(14) has not made any material misrepresentation, or failed to disclose any material fact, in an application submitted pursuant to Section [411.174](#).

(b) For the purposes of this section, an offense under the laws of this state, another state, or the United States is:

(1) except as provided by Subsection (b-1), a felony if the offense, at the time the offense is committed:

(A) is designated by a law of this state as a felony;

(B) contains all the elements of an offense designated by a law of this state as a felony; or

(C) is punishable by confinement for one year or more in a penitentiary; and

(2) a Class A misdemeanor if the offense is not a felony and confinement in a jail other than a state jail felony facility is affixed as a possible punishment.

(b-1) An offense is not considered a felony for purposes of Subsection (b) if, at the time of a person's application for a license to carry a handgun, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

(c) An individual who has been convicted two times within the 10-year period preceding the date on which the person applies for a license of an offense of the grade of Class B misdemeanor or greater that involves the use of alcohol or a controlled substance as a statutory element of the offense is a chemically dependent person for purposes of this section and is not qualified to receive a license under this subchapter. This subsection does not preclude the disqualification of an individual for being a chemically dependent person if other evidence exists to show that the person is a chemically dependent person.

(d) For purposes of Subsection (a)(7), a person is incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person:

(1) has been diagnosed by a licensed physician as suffering from a psychiatric disorder or condition that causes or is likely to cause substantial impairment in judgment, mood, perception, impulse control, or intellectual ability;

(2) suffers from a psychiatric disorder or condition described by Subdivision (1) that:

(A) is in remission but is reasonably likely to redevelop at a future time; or

(B) requires continuous medical treatment to avoid redevelopment;

(3) has been diagnosed by a licensed physician, determined by a review board or similar authority, or declared by a court to be incompetent to manage the person's own affairs; or

(4) has entered in a criminal proceeding a plea of not guilty by reason of insanity.

(e) The following constitutes evidence that a person has a psychiatric disorder or condition described by Subsection (d)(1):

(1) involuntary psychiatric hospitalization;

(2) psychiatric hospitalization;

(3) inpatient or residential substance abuse treatment in the preceding five-year period;

(4) diagnosis in the preceding five-year period by a licensed physician that the person is dependent on alcohol, a controlled substance, or a similar substance; or

(5) diagnosis at any time by a licensed physician that the person suffers or has suffered from a psychiatric disorder or condition consisting of or relating to:

(A) schizophrenia or delusional disorder;

(B) bipolar disorder;

(C) chronic dementia, whether caused by illness, brain defect, or brain injury;

(D) dissociative identity disorder;

(E) intermittent explosive disorder; or

(F) antisocial personality disorder.

(f) Notwithstanding Subsection (d), a person who has previously been diagnosed as suffering from a psychiatric disorder or condition described by Subsection



(d) or listed in Subsection (e) is not because of that disorder or condition incapable of exercising sound judgment with respect to the proper use and storage of a handgun if the person provides the department with a certificate from a licensed physician whose primary practice is in the field of psychiatry stating that the psychiatric disorder or condition is in remission and is not reasonably likely to develop at a future time.

(g) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a handgun if the person:

(1) is a member or veteran of the United States armed forces, including a member or veteran of the reserves or national guard;

(2) was discharged under honorable conditions, if discharged from the United States armed forces, reserves, or national guard; and

(3) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

(h) The issuance of a license to carry a handgun to a person eligible under Subsection (g) does not affect the person's ability to purchase a handgun or ammunition under federal law.

(i) Notwithstanding Subsection (a)(2), a person who is at least 18 years of age but not yet 21 years of age is eligible for a license to carry a handgun if the person:

(1) is protected under:

(A) an active protective order issued under:

(i) Title 4, Family Code; or

(ii) Subchapter A, Chapter 7B, Code of Criminal Procedure;

or

(B) an active magistrate's order for emergency protection under Article 17.292, Code of Criminal Procedure; and

(2) meets the other eligibility requirements of Subsection (a) except for the minimum age required by federal law to purchase a handgun.

### **Sec. 411.173. NONRESIDENT LICENSE.**

(a) The department by rule shall establish a procedure for a person who meets the eligibility requirements of this subchapter other than the residency requirement established by Section 411.172(a)(1) to obtain a license under this subchapter if the person is a legal resident of another state or if the person relocates to this state with the intent to establish residency in this state. The procedure must include payment of a fee

in an amount sufficient to recover the average cost to the department of obtaining a criminal history record check and investigation on a nonresident applicant. A license issued in accordance with the procedure established under this subsection:

- (1) remains in effect until the license expires under Section 411.183; and
- (2) may be renewed under Section 411.185.

(a-1) Repealed by Acts 2005, 79th Leg., Ch. 915, Sec. 4, eff. September 1, 2005.

(b) The governor shall negotiate an agreement with any other state that provides for the issuance of a license to carry a handgun under which a license issued by the other state is recognized in this state or shall issue a proclamation that a license issued by the other state is recognized in this state if the attorney general of the State of Texas determines that a background check of each applicant for a license issued by that state is initiated by state or local authorities or an agent of the state or local authorities before the license is issued. For purposes of this subsection, "background check" means a search of the National Crime Information Center database and the Interstate Identification Index maintained by the Federal Bureau of Investigation.

(c) The attorney general of the State of Texas shall annually:

(1) submit a report to the governor, lieutenant governor, and speaker of the house of representatives listing the states the attorney general has determined qualify for recognition under Subsection (b); and

(2) review the statutes of states that the attorney general has determined do not qualify for recognition under Subsection (b) to determine the changes to their statutes that are necessary to qualify for recognition under that subsection.

(d) The attorney general of the State of Texas shall submit the report required by Subsection (c)(1) not later than January 1 of each calendar year.

#### **Sec. 411.1735. PROTECTIVE ORDER DESIGNATION.**

(a) Notwithstanding any other provision of this subchapter, a person who establishes eligibility for a license to carry a handgun under Section 411.172(i) may only hold a license under this subchapter that bears a protective order designation on the face of the license.

(b) A person described by this section must submit a copy of the applicable court order described by Section 411.172(i)(1) with the application materials described by Section 411.174. The person's application is not considered complete for purposes

of this subchapter unless the application includes the documentation and materials required by this section.

(c) Notwithstanding Section 411.183, a license that bears a protective order designation under this section expires on the earlier of:

(1) the date on which the applicable court order described by Section 411.172(i)(1) is rescinded or expires; or

(2) the 22nd birthday of the license holder.

(d) A holder of a license with a protective order designation under this section who becomes 21 years of age may apply for a license under this subchapter that does not bear the designation by using the renewal procedure under Section 411.185, regardless of whether the license that bears the designation has expired or is about to expire.

(e) The director shall adopt rules establishing a process by which the department periodically verifies a license holder's eligibility for a license to carry a handgun under Section 411.172(i) if the license holder's license bears a protective order designation under this section. The rules may specify different intervals at which the department must verify the license holder's eligibility based on the court order used to satisfy the eligibility requirement described by Section 411.172(i)(1).

#### **Sec. 411.174. APPLICATION.**

(a) An applicant for a license to carry a handgun must submit to the director's designee described by Section [411.176](#):

(1) a completed application on a form provided by the department that requires only the information listed in Subsection (b);

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) a certified copy of the applicant's birth certificate or certified proof of age;

(4) proof of residency in this state;

(5) two complete sets of legible and classifiable fingerprints of the applicant taken by a person appropriately trained in recording fingerprints who is employed by a law enforcement agency or by a private entity designated by a law

enforcement agency as an entity qualified to take fingerprints of an applicant for a license under this subchapter;

(6) a nonrefundable application and license fee of \$40 paid to the department;

(7) evidence of handgun proficiency, in the form and manner required by the department;

(8) an affidavit signed by the applicant stating that the applicant:

(A) has read and understands each provision of this subchapter that creates an offense under the laws of this state and each provision of the laws of this state related to use of deadly force; and

(B) fulfills all the eligibility requirements listed under Section [411.172](#); and

(9) a form executed by the applicant that authorizes the director to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under Section [411.172\(a\)](#).

(b) An applicant must provide on the application a statement of the applicant's:

(1) full name and place and date of birth;

(2) race and sex;

(3) residence and business addresses for the preceding five years;

(4) hair and eye color;

(5) height and weight;

(6) driver's license number or identification certificate number issued by the department;

(7) criminal history record information of the type maintained by the department under this chapter, including a list of offenses for which the applicant was arrested, charged, or under an information or indictment and the disposition of the offenses; and

(8) history, if any, of treatment received by, commitment to, or residence in:

(A) a drug or alcohol treatment center licensed to provide drug or alcohol treatment under the laws of this state or another state, but only if the treatment, commitment, or residence occurred during the preceding five years; or

(B) a psychiatric hospital.

(b-1) The application must provide space for the applicant to:

(1) list any military service that may qualify the applicant to receive a license with a veteran's designation under Section [411.179\(e\)](#); and

(2) include proof required by the department to determine the applicant's eligibility to receive that designation.

(c) The department shall distribute on request a copy of this subchapter and application materials.

(d) The department may not request or require an applicant to provide the applicant's social security number as part of an application under this section.

**Sec. 411.1741. VOLUNTARY CONTRIBUTION TO FUND FOR VETERANS' ASSISTANCE.**

(a) When a person applies for an original or renewal license to carry a handgun under this subchapter, the person may make a voluntary contribution in any amount to the fund for veterans' assistance established by Section [434.017](#).

(b) The department shall:

(1) include space on the first page of each application for an original or renewal license to carry a handgun that allows a person applying for an original or renewal license to carry a handgun to indicate the amount that the person is voluntarily contributing to the fund; and

(2) provide an opportunity for the person to contribute to the fund during the application process for an original or renewal license to carry a handgun on the department's Internet website.

(c) The department shall send any contribution made under this section to the comptroller for deposit in the state treasury to the credit of the fund for veterans' assistance not later than the 14th day of each month. Before sending the money to the fund, the department may deduct money equal to the amount of reasonable expenses for administering this section.

**Sec. 411.175. PROCEDURES FOR SUBMITTING FINGERPRINTS.**

The department shall establish procedures for the submission of legible and classifiable fingerprints by an applicant for a license under this subchapter who:

(1) is required to submit those fingerprints to the department, including an applicant under Section [411.199](#), [411.1991](#), or [411.201](#); and

(2) resides in a county having a population of 46,000 or less and does not reside within a 25-mile radius of a facility with the capability to process digital or electronic fingerprints.

**Sec. 411.176. REVIEW OF APPLICATION MATERIALS.**

(a) On receipt of application materials by the department at its Austin headquarters, the department shall conduct the appropriate criminal history record check of the applicant through its computerized criminal history system. Not later than the 30th day after the date the department receives the application materials, the department shall forward the materials to the director's designee in the geographical area of the applicant's residence so that the designee may conduct the investigation described by Subsection (b). For purposes of this section, the director's designee may be a noncommissioned employee of the department.

(b) The director's designee as needed shall conduct an additional criminal history record check of the applicant and an investigation of the applicant's local official records to verify the accuracy of the application materials. The director's designee may access any records necessary for purposes of this subsection. The scope of the record check and the investigation are at the sole discretion of the department, except that the director's designee shall complete the record check and investigation not later than the 60th day after the date the department receives the application materials. The department shall send a fingerprint card to the Federal Bureau of Investigation for a national criminal history check of the applicant. On completion of the investigation, the director's designee shall return all materials and the result of the investigation to the appropriate division of the department at its Austin headquarters.

(c) The director's designee may submit to the appropriate division of the department, at the department's Austin headquarters, along with the application materials a written recommendation for disapproval of the application, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of a ground for denial under Section [411.172](#). The director's designee may also submit the application and the recommendation that the license be issued.

(d) On receipt at the department's Austin headquarters of the application materials and the result of the investigation by the director's designee, the department shall conduct any further record check or investigation the department determines is necessary if a question exists with respect to the accuracy of the application materials or the eligibility of the applicant, except that the department shall complete the record check and investigation not later than the 180th day after the date the department receives the application materials from the applicant.

#### **Sec. 411.177. ISSUANCE OR DENIAL OF LICENSE.**

(a) The department shall issue a license to carry a handgun to an applicant if the applicant meets all the eligibility requirements and submits all the application

materials. The department shall administer the licensing procedures in good faith so that any applicant who meets all the eligibility requirements and submits all the application materials shall receive a license. The department may not deny an application on the basis of a capricious or arbitrary decision by the department.

(b) Except as otherwise provided by Subsection (b-1), the department shall, not later than the 60th day after the date of the receipt by the director's designee of the completed application materials:

(1) issue the license;

(2) notify the applicant in writing that the application was denied:

(A) on the grounds that the applicant failed to qualify under the criteria listed in Section [411.172](#);

(B) based on the affidavit of the director's designee submitted to the department under Section [411.176\(c\)](#); or

(C) based on the affidavit of the qualified handgun instructor submitted to the department under Section [411.188\(k\)](#); or

(3) notify the applicant in writing that the department is unable to make a determination regarding the issuance or denial of a license to the applicant within the 60-day period prescribed by this subsection and include in that notification an explanation of the reason for the inability and an estimation of the additional period the department will need to make the determination.

(b-1) If the applicant submits with the completed application materials an application for a designation under Section [411.184](#), the department shall, without charging an additional fee, expedite the application. Not later than the 10th day after the receipt of the materials under this subsection, the department shall:

(1) issue the license with the designation; or

(2) notify the applicant in writing that the applicant is not eligible for the designation under Section [411.184](#) and the application for the license will be processed in the regular course of business.

(b-2) Notwithstanding Subsection (b-1), if the department determines that the applicant is eligible for the designation under Section [411.184](#) but is unable to quickly make a determination regarding the issuance or denial of a license to the applicant, the department shall provide written notice of that fact to the applicant and shall include in that notice an explanation of the reason for the inability and an estimation of the additional period the department will need to make the determination.

(b-3) The director shall adopt policies for expedited processing under Subsection (b-1).

(c) Failure of the department to issue or deny a license for a period of more than 30 days after the department is required to act under Subsection (b) constitutes denial, regardless of whether the applicant was eligible for expedited processing of the application under Subsection (b-1).

(d) A license issued under this subchapter is effective from the date of issuance.

**Sec. 411.178. NOTICE TO LOCAL LAW ENFORCEMENT.**

On request of a local law enforcement agency, the department shall notify the agency of the licenses that have been issued to license holders who reside in the county in which the agency is located.

**Sec. 411.179. FORM OF LICENSE.**

*Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 203 (H.B. 918), Sec. 3*

(a) The department by rule shall adopt the form of the license. A license must include:

- (1) a number assigned to the license holder by the department;
- (2) a statement of the period for which the license is effective;
- (3) a photograph of the license holder;
- (4) the license holder's full name, date of birth, hair and eye color, height, weight, and signature;
- (5) the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge;
- (6) the number of a driver's license or an identification certificate issued to the license holder by the department;
- (7) the designation "VETERAN" if required under Subsection (e); and
- (8) if applicable, a protective order designation under Section 411.1735.

*Text of subsection as amended by Acts 2021, 87th Leg., R.S., Ch. 821 (H.B. 2675), Sec. 2*

(a) The department by rule shall adopt the form of the license. A license must include:



- (1) a number assigned to the license holder by the department;
- (2) a statement of the period for which the license is effective;
- (3) a photograph of the license holder;
- (4) the license holder's full name, date of birth, hair and eye color, height, weight, and signature;
- (5) the license holder's residence address or, as provided by Subsection (d), the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or the license holder serves as a state judge;
- (6) the number of a driver's license or an identification certificate issued to the license holder by the department;
- (7) the designation "VETERAN" if required under Subsection (e); and
- (8) any at-risk designation for which the license holder has established eligibility under Section [411.184](#).
- (9) if applicable, a protective order designation under Section [411.1735](#).

(b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(2), eff. June 14, 2013.

(c) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a qualified handgun instructor or of the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, prosecuting attorney, or assistant prosecuting attorney, as described by Section [46.15\(a\)\(4\)](#), (6), or (7), Penal Code, to indicate on the license the license holder's status as a qualified handgun instructor or as the attorney general or a judge, justice, United States attorney, assistant United States attorney, assistant attorney general, district attorney, criminal district attorney, or county attorney. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status under this subsection.

(d) In adopting the form of the license under Subsection (a), the department shall establish a procedure for the license of a federal judge, a state judge, or the spouse of a federal judge or state judge to omit the license holder's residence address and to include, in lieu of that address, the street address of the courthouse in which the license holder or license holder's spouse serves as a federal judge or state judge. In establishing the procedure, the department shall require sufficient documentary evidence to establish the license holder's status as a federal judge, a state judge, or the spouse of a federal judge or state judge.

(e) In this subsection, "veteran" has the meaning assigned by Section [411.1951](#). The department shall include the designation "VETERAN" on the face of any

original, duplicate, modified, or renewed license under this subchapter or on the reverse side of the license, as determined by the department, if the license is issued to a veteran who:

- (1) requests the designation; and
- (2) provides proof sufficient to the department of the veteran's military service and honorable discharge.

(f) In this section, "family member" has the meaning assigned by Section [31.006](#), Finance Code.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 10.003, eff. September 1, 2023.

**Sec. 411.180. NOTIFICATION OF DENIAL, REVOCATION, OR  
SUSPENSION OF LICENSE; REVIEW.**

(a) The department shall give written notice to each applicant for a handgun license of any denial, revocation, or suspension of that license. Not later than the 30th day after the notice is received by the applicant, according to the records of the department, the applicant or license holder may request a hearing on the denial, revocation, or suspension. The applicant must make a written request for a hearing addressed to the department at its Austin address. The request for hearing must reach the department in Austin prior to the 30th day after the date of receipt of the written notice. On receipt of a request for hearing from a license holder or applicant, the department shall promptly schedule a hearing in the appropriate justice court in the county of residence of the applicant or license holder. The justice court shall conduct a hearing to review the denial, revocation, or suspension of the license. In a proceeding under this section, a justice of the peace shall act as an administrative hearing officer. A hearing under this section is not subject to Chapter 2001 (Administrative Procedure Act). A district attorney or county attorney, the attorney general, or a designated member of the department may represent the department.

(b) The department, on receipt of a request for hearing, shall file the appropriate petition in the justice court selected for the hearing and send a copy of that petition to the applicant or license holder at the address contained in departmental records. A hearing under this section must be scheduled within 30 days of receipt of the request for a hearing. The hearing shall be held expeditiously but in no event more than 60 days after the date that the applicant or license holder requested the hearing.

The date of the hearing may be reset on the motion of either party, by agreement of the parties, or by the court as necessary to accommodate the court's docket.

(c) The justice court shall determine if the denial, revocation, or suspension is supported by a preponderance of the evidence. Both the applicant or license holder and the department may present evidence. The court shall affirm the denial, revocation, or suspension if the court determines that denial, revocation, or suspension is supported by a preponderance of the evidence. If the court determines that the denial, revocation, or suspension is not supported by a preponderance of the evidence, the court shall order the department to immediately issue or return the license to the applicant or license holder.

(d) A proceeding under this section is subject to Chapter 105, Civil Practice and Remedies Code, relating to fees, expenses, and attorney's fees.

(e) A party adversely affected by the court's ruling following a hearing under this section may appeal the ruling by filing within 30 days after the ruling a petition in a county court at law in the county in which the applicant or license holder resides or, if there is no county court at law in the county, in the county court of the county. A person who appeals under this section must send by certified mail a copy of the person's petition, certified by the clerk of the court in which the petition is filed, to the appropriate division of the department at its Austin headquarters. The trial on appeal shall be a trial de novo without a jury. A district or county attorney or the attorney general may represent the department.

(f) A suspension of a license may not be probated.

(g) If an applicant or a license holder does not petition the justice court, a denial becomes final and a revocation or suspension takes effect on the 30th day after receipt of written notice.

(h) The department may use and introduce into evidence certified copies of governmental records to establish the existence of certain events that could result in the denial, revocation, or suspension of a license under this subchapter, including records regarding convictions, judicial findings regarding mental competency, judicial findings regarding chemical dependency, or other matters that may be established by governmental records that have been properly authenticated.

(i) This section does not apply to a suspension of a license under Section 85.022, Family Code, or Article 17.292, Code of Criminal Procedure.

**Sec. 411.181. NOTICE OF CHANGE OF INFORMATION; DUPLICATE LICENSE.**

(a) If a person who is a current license holder moves from any residence address stated on the license, if the name of the person is changed by marriage or otherwise, or if the person's status becomes inapplicable for purposes of the information required to be displayed on the license under Section 411.179, the person shall, not later than the 30th day after the date of the address, name, or status change, notify the department and provide the department with the number of the person's license and, as applicable, the person's:

- (1) former and new addresses;
- (2) former and new names; or
- (3) former and new status.

(a-1) If a license holder whose license will expire under Section 411.183(a)(1)(B) or (b)(1)(B) is granted an extension for the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law, the license holder may apply to the department for a duplicate license with an updated expiration date by providing to the department the person's license number and evidence of the extension. The duplicate license must provide for an expiration date, calculated in accordance with Section 411.183(a) or (b), as applicable, that takes into account the extension of the period for which the license holder may be lawfully present in the United States.

(b) If the name of the license holder is changed by marriage or otherwise, or if the person's status becomes inapplicable as described by Subsection (a), the person shall apply for a duplicate license. The duplicate license must reflect the person's current name, residence address, and status.

(c) If a license holder moves from the address stated on the license, the person shall apply for a duplicate license.

(d) The department shall charge a license holder a fee of \$25 for a duplicate license.

(e) The department shall make the forms available on request.

(f) On request of a local law enforcement agency, the department shall notify the agency of changes made under Subsection (a) by license holders who reside in the county in which the agency is located.

(g) If a license is lost, stolen, or destroyed, the license holder shall apply for a duplicate license not later than the 30th day after the date of the loss, theft, or destruction of the license.

(h) If a license holder is required under this section to apply for a duplicate license and the license expires not later than the 60th day after the date of the loss,

theft, or destruction of the license, the applicant may renew the license with the modified information included on the new license. The applicant must pay only the nonrefundable renewal fee.

(i) A license holder whose application fee for a duplicate license under this section is dishonored or reversed may reapply for a duplicate license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

**Sec. 411.182. NOTICE.**

(a) For the purpose of a notice required by this subchapter, the department may assume that the address currently reported to the department by the applicant or license holder is the correct address.

(b) A written notice meets the requirements under this subchapter if the notice is sent by certified mail to the current address reported by the applicant or license holder to the department.

(c) If a notice is returned to the department because the notice is not deliverable, the department may give notice by publication once in a newspaper of general interest in the county of the applicant's or license holder's last reported address. On the 31st day after the date the notice is published, the department may take the action proposed in the notice.

**Sec. 411.183. EXPIRATION.**

(a) A license issued under this subchapter expires on:

(1) the earlier of:

(A) the first birthday of the license holder occurring after the fourth anniversary of the date of issuance; or

(B) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law; or

(2) the first anniversary of the date of issuance, if there is no definite expiration date for the applicant's lawful presence in the United States.

(b) A renewed license expires on:

(1) the earlier of:

(A) the license holder's birthdate, five years after the date of the expiration of the previous license; or

(B) the expiration of the license holder's lawful presence in the United States as determined by the United States agency responsible for citizenship and immigration in compliance with federal law; or

(2) the first anniversary of the date of renewal, if there is no definite expiration date for the applicant's lawful presence in the United States.

(c) Except as otherwise provided by Section 411.181(a-1), a duplicate license expires on the date the license that was duplicated would have expired.

(d) A modified license expires on the date the license that was modified would have expired.

**Sec. 411.184. AT-RISK DESIGNATION.**

(a) The department shall develop a procedure for persons who are at increased risk of becoming a victim of violence to:

(1) obtain a handgun license on an expedited basis, if the person is not already a license holder; and

(2) qualify for an at-risk designation on the license.

(b) A person is eligible for an at-risk designation under this section if:

(1) the person is protected under, or a member of the person's household or family is protected under:

(A) a temporary restraining order or temporary injunction issued under Subchapter F, Chapter 6, Family Code;

(B) a temporary ex parte order issued under Chapter 83, Family Code;

(C) a protective order issued under Chapter 85, Family Code;

(D) a protective order issued under Chapter 7B, Code of Criminal Procedure; or

(E) a magistrate's order for emergency protection issued under Article 17.292, Code of Criminal Procedure; or

(2) the person participates in the address confidentiality program under Subchapter B, Chapter 58, Code of Criminal Procedure.

(c) The director may adopt rules to accept alternative documentation not described by Subsection (b) that shows that the person is at increased risk of becoming a victim of violence.

(d) A person may receive an at-risk designation under this section if the person submits to the department, in the form and manner provided by the department:

- (1) an application for the designation;
- (2) evidence of the increased risk of becoming a victim of violence, as provided by Subsection (b) or rules adopted under Subsection (c); and
- (3) any other information that the department may require.

(e) A license holder may apply for the designation under this section by making an application for a duplicate license. A person who is not a license holder may apply for the designation with the person's application for an original license to carry a handgun.

(f) A person with a designation granted under this section shall annually certify that the person continues to qualify for the designation and shall submit to the department any information the department requires to verify the person's continuing eligibility. A person who no longer qualifies for the designation under this section shall immediately notify the department.

(g) If based on the information received under Subsection (f) the department determines that the person is no longer eligible for a designation under this section, the department shall notify the person and issue to the person a duplicate license without a designation.

(h) On receipt of a duplicate license without a designation under Subsection (g), the license holder shall return the license with the designation to the department.

(i) The department may not charge a fee for issuing a duplicate license with a designation under this section or for issuing a duplicate license without a designation if the person no longer qualifies for the designation. If a person applies for a designation at the same time the person applies for an original license under this subchapter, the department may charge only the licensing fee.

**Sec. 411.185. LICENSE RENEWAL PROCEDURE.**

(a) To renew a license, a license holder must, on or before the date the license expires, submit to the department by mail or, in accordance with the procedure adopted under Subsection (f), on the Internet:

- (1) a renewal application on a form provided by the department;
- (2) payment of a nonrefundable renewal fee of \$40; and
- (3) the informational form described by Subsection (c) signed or electronically acknowledged by the applicant.

(b) The director by rule shall adopt a renewal application form requiring an update of the information on the original completed application.

(c) The director by rule shall adopt an informational form that describes state law regarding the use of deadly force and the places where it is unlawful for the holder of a license issued under this subchapter to carry a handgun. An applicant for a renewed license must sign and return the informational form to the department by mail or acknowledge the form electronically on the Internet according to the procedure adopted under Subsection (f).

(d) Not later than the 60th day before the expiration date of the license, the department shall mail to each license holder a written notice of the expiration of the license, a renewal application form, and the informational form described by Subsection (c).

(e) The department shall renew the license of a license holder who meets all the eligibility requirements to continue to hold a license and submits all the renewal materials described by Subsection (a). Not later than the 45th day after receipt of the renewal materials, the department shall issue the renewed license or notify the license holder in writing that the department denied the license holder's renewal application.

(f) The director by rule shall adopt a procedure by which a license holder who satisfies the eligibility requirements to continue to hold a license may submit the renewal materials described by Subsection (a) by mail or on the Internet.

(g) The department may not request or require a license holder to provide the license holder's social security number to renew a license under this section.

**Sec. 411.186. REVOCATION.**

(a) The department shall revoke a license under this section if the license holder:

- (1) was not entitled to the license at the time it was issued;



(2) made a material misrepresentation or failed to disclose a material fact in an application submitted under this subchapter;

(3) subsequently becomes ineligible for a license under Section 411.172, unless the sole basis for the ineligibility is that the license holder is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section 42.01, Penal Code, or equivalent offense, or of a felony under an information or indictment;

(4) is determined by the department to have engaged in conduct constituting a reason to suspend a license listed in Section 411.187(a) after the person's license has been previously suspended twice for the same reason; or

(5) submits an application fee that is dishonored or reversed if the applicant fails to submit a cashier's check or money order made payable to the "Department of Public Safety of the State of Texas" in the amount of the dishonored or reversed fee, plus \$25, within 30 days of being notified by the department that the fee was dishonored or reversed.

(b) If a peace officer believes a reason listed in Subsection (a) to revoke a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the revocation of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of revocation from the department, unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review the revocation as provided by Section 411.180. If a request is made for the justice court to review the revocation and hold a hearing, the license holder shall surrender the license on the date an order of revocation is entered by the justice court.

(c) A license holder whose license is revoked for a reason listed in Subsections (a)(1)-(4) may reapply as a new applicant for the issuance of a license under this subchapter after the second anniversary of the date of the revocation if the cause for revocation does not exist on the date of the second anniversary. If the cause for

revocation exists on the date of the second anniversary after the date of revocation, the license holder may not apply for a new license until the cause for revocation no longer exists and has not existed for a period of two years.

(d) A license holder whose license is revoked under Subsection (a)(5) may reapply for an original or renewed license at any time, provided the application fee and a dishonored payment charge of \$25 is paid by cashier's check or money order made payable to the "Texas Department of Public Safety."

### **Sec. 411.187. SUSPENSION OF LICENSE.**

(a) The department shall suspend a license under this section if the license holder:

(1) is charged with the commission of a Class A or Class B misdemeanor or equivalent offense, or of an offense under Section [42.01](#), Penal Code, or equivalent offense, or of a felony under an information or indictment;

(2) fails to notify the department of a change of address, name, or status as required by Section [411.181](#);

(3) commits an act of family violence and is the subject of an active protective order rendered under Title 4, Family Code; or

(4) is arrested for an offense involving family violence or an offense under Section [42.072](#), Penal Code, and is the subject of an order for emergency protection issued under Article [17.292](#), Code of Criminal Procedure.

(b) If a peace officer believes a reason listed in Subsection (a) to suspend a license exists, the officer shall prepare an affidavit on a form provided by the department stating the reason for the suspension of the license and giving the department all of the information available to the officer at the time of the preparation of the form. The officer shall attach the officer's reports relating to the license holder to the form and send the form and the attachments to the appropriate division of the department at its Austin headquarters not later than the fifth working day after the date the form is prepared. The officer shall send a copy of the form and the attachments to the license holder. If the license holder has not surrendered the license or the license was not seized as evidence, the license holder shall surrender the license to the appropriate division of the department not later than the 10th day after the date the license holder receives the notice of suspension from the department unless the license holder requests a hearing from the department. The license holder may request that the justice court in the justice court precinct in which the license holder resides review

the suspension as provided by Section [411.180](#). If a request is made for the justice court to review the suspension and hold a hearing, the license holder shall surrender the license on the date an order of suspension is entered by the justice court.

(c) The department shall suspend a license under this section:

(1) for 30 days, if the person's license is subject to suspension for a reason listed in Subsection (a)(2), (3), or (4), except as provided by Subdivision (2);

(2) for not less than one year and not more than three years, if the person's license:

(A) is subject to suspension for a reason listed in Subsection (a), other than the reason listed in Subsection (a)(1); and

(B) has been previously suspended for the same reason;

(3) until dismissal of the charges, if the person's license is subject to suspension for the reason listed in Subsection (a)(1); or

(4) for the duration of or the period specified by:

(A) the protective order issued under Title 4, Family Code, if the person's license is subject to suspension for the reason listed in Subsection (a)(5); or

(B) the order for emergency protection issued under Article [17.292](#), Code of Criminal Procedure, if the person's license is subject to suspension for the reason listed in Subsection (a)(6).

#### **Sec. 411.1871. NOTICE OF SUSPENSION OR REVOCATION OF CERTAIN LICENSES.**

The department shall notify the Texas Commission on Law Enforcement Officer Standards and Education if the department takes any action against the license of a person identified by the commission as a person certified under Section [1701.260](#), Occupations Code, including suspension or revocation.

#### **Sec. 411.188. HANDGUN PROFICIENCY REQUIREMENT.**

(a) The director by rule shall establish minimum standards for handgun proficiency and shall develop a course to teach handgun proficiency and examinations to measure handgun proficiency. The course to teach handgun proficiency is required for each person who seeks to obtain a license and must contain training sessions divided into two parts. One part of the course must be classroom instruction and the other part must be range instruction and an actual demonstration by the applicant of the applicant's ability to safely and proficiently use a handgun. An applicant must be able to

demonstrate, at a minimum, the degree of proficiency that is required to effectively operate a handgun. The department shall distribute the standards, course requirements, and examinations on request to any qualified handgun instructor or approved online course provider seeking to administer the course or a part of the course as described by Subsection (b).

(b) Only qualified handgun instructors may administer the range instruction part of the handgun proficiency course. A qualified handgun instructor or approved online course provider may administer the classroom instruction part of the handgun proficiency course. The classroom instruction part of the course must include not less than four hours and not more than six hours of instruction on:

- (1) the laws that relate to weapons and to the use of deadly force;
- (2) handgun use and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;
- (3) nonviolent dispute resolution; and
- (4) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(c) An approved online course provider shall administer the classroom instruction part of the handgun proficiency course in an online format. A course administered online must include not less than four hours and not more than six hours of instruction.

(d) Except as provided by Subsection (e), only a qualified handgun instructor may administer the proficiency examination to obtain a license. The proficiency examination must include:

- (1) a written section on the subjects listed in Subsection (b); and
- (2) a physical demonstration of proficiency in the use of one or more handguns and in handgun safety procedures.

(d-1) A qualified handgun instructor shall require an applicant who successfully completed an online version of the classroom instruction part of the handgun proficiency course to complete not less than one hour but not more than two hours of the range instruction part of the handgun proficiency course before allowing a physical demonstration of handgun proficiency as described by Subsection (d)(2).

(e) An approved online course provider may administer online through a secure portal the written portion of the proficiency examination described by Subsection (d)(1).

(f) The department shall develop and distribute directions and materials for course instruction, test administration, and recordkeeping. All test results shall be sent to the department, and the department shall maintain a record of the results.

(g) A person who wishes to obtain a license to carry a handgun must apply in person to a qualified handgun instructor to take the range instruction part of the handgun proficiency course and to demonstrate handgun proficiency as required by the department. A person must apply in person to a qualified handgun instructor or online to an approved online course provider, as applicable, to take the classroom instruction part of the handgun proficiency course.

(h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1302, Sec. 14(4), eff. June 14, 2013.

(i) A certified firearms instructor of the department may monitor any class or training presented by a qualified handgun instructor. A qualified handgun instructor shall cooperate with the department in the department's efforts to monitor the presentation of training by the qualified handgun instructor.

(j) A qualified handgun instructor or approved online course provider shall make available for inspection to the department any and all records maintained by the instructor or course provider under this subchapter. The qualified handgun instructor or approved online course provider shall keep a record of all information required by department rule.

(k) A qualified handgun instructor may submit to the department a written recommendation for disapproval of the application for a license or modification of a license, accompanied by an affidavit stating personal knowledge or naming persons with personal knowledge of facts that lead the instructor to believe that an applicant does not possess the required handgun proficiency. The department may use a written recommendation submitted under this subsection as the basis for denial of a license only if the department determines that the recommendation is made in good faith and is supported by a preponderance of the evidence. The department shall make a determination under this subsection not later than the 45th day after the date the department receives the written recommendation. The 60-day period in which the department must take action under Section [411.177\(b\)](#) is extended one day for each day a determination is pending under this subsection.

**Sec. 411.1881. EXEMPTION FROM INSTRUCTION FOR CERTAIN PERSONS.**

(a) Notwithstanding any other provision of this subchapter, a person may not be required to complete the range instruction portion of a handgun proficiency course to obtain a license issued under this subchapter if the person:

(1) is currently serving in or is honorably discharged from:

(A) the army, navy, air force, coast guard, or marine corps of the United States or an auxiliary service or reserve unit of one of those branches of the armed forces; or

(B) the Texas military forces, as defined by Section [437.001](#); and

(2) has, within the 10 years preceding the date of the person's application for the license, completed as part of the person's service with the armed forces or Texas military forces:

(A) a course of training in firearm proficiency or familiarization; or

(B) a range qualification process for firearm usage.

(b) The director by rule shall adopt a procedure by which a license holder who is exempt under Subsection (a) from the range instruction portion of the handgun proficiency requirement may submit a form demonstrating the license holder's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the license holder qualifies for the exemption.

**Sec. 411.1882. EVIDENCE OF HANDGUN PROFICIENCY FOR CERTAIN PERSONS.**

(a) A person who is serving in this state as the attorney general or as a judge or justice of a federal court, as an active judicial officer as defined by Section [411.201](#), as a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney, as a district or county clerk, as a supervision officer as defined by Article [42A.001](#), Code of Criminal Procedure, or as a juvenile probation officer may establish handgun proficiency for the purposes of this subchapter by obtaining from a handgun proficiency instructor approved by the Texas Commission on Law Enforcement for purposes of Section [1702.1675](#), Occupations Code, a sworn statement that indicates that the person, during the 12-month period preceding the date of the person's application to the department, demonstrated to the instructor proficiency in the use of handguns.

(b) The director by rule shall adopt a procedure by which a person described under Subsection (a) may submit a form demonstrating the person's qualification for an exemption under that subsection. The form must provide sufficient information to allow the department to verify whether the person qualifies for the exemption.

(c) A license issued under this section automatically expires on the six-month anniversary of the date the person's status under Subsection (a) becomes inapplicable. A license that expires under this subsection may be renewed under Section [411.185](#).

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. [599](#)), Sec. 1, eff. September 1, 2023.

**Sec. 411.1883. TRAINING COURSE FOR CERTAIN FIRST RESPONDERS.**

(a) In this section, "first responder" has the meaning assigned by Section [46.01](#), Penal Code.

(b) The director by rule shall establish minimum standards for an initial training course that a first responder who is a license holder and who is employed or supervised by a county or municipality to which Chapter [179](#), Local Government Code, applies may complete to receive a certification of completion from the department under this section.

The training course must:

- (1) be administered by a qualified handgun instructor;
- (2) include not more than 40 hours of instruction;
- (3) provide classroom training in:
  - (A) self-defense;
  - (B) de-escalation techniques;
  - (C) tactical thinking relating to cover for and concealment of the license holder;
  - (D) methods to conceal a handgun and methods to ensure the secure carrying of a concealed handgun;
  - (E) the use of restraint holsters and methods to ensure the secure carrying of an openly carried handgun; and
  - (F) consequences of improper use of a handgun;
- (4) provide field instruction in the use of handguns, including:
  - (A) instinctive or reactive shooting;
  - (B) tactical shooting;
  - (C) shooting while moving; and
  - (D) shooting in low light conditions;
- (5) require physical demonstrations of proficiency in techniques learned in training; and

(6) provide procedures for securing and storing a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

(c) The department by rule shall establish minimum standards for an annual continuing education course that is administered by a qualified handgun instructor and includes not more than 10 hours of instruction for a person who has completed the initial training course described by Subsection (b).

(d) The department shall issue a certificate of completion to a first responder who is a license holder and who completes the initial training course under Subsection (b) or the continuing education course under Subsection (c), as applicable. A certificate of completion expires on the first anniversary of issuance.

(e) A first responder is responsible for paying to the course provider the costs of a training course under this section.

(f) The director by rule shall approve devices to enable a first responder to secure and store a handgun if the first responder, while on duty, is required to enter a location where carrying the handgun is prohibited by federal law or otherwise.

Redesignated from Government Code, Section [411.184](#) by Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 24.001(16), eff. September 1, 2023.

### **Sec. 411.190. QUALIFIED HANDGUN INSTRUCTORS AND APPROVED ONLINE COURSE PROVIDERS.**

(a) The director may certify as a qualified handgun instructor a person who:

- (1) is certified by the Texas Commission on Law Enforcement or under Chapter [1702](#), Occupations Code, to instruct others in the use of handguns;
- (2) regularly instructs others in the use of handguns and has graduated from a handgun instructor school that uses a nationally accepted course designed to train persons as handgun instructors; or
- (3) is certified by the National Rifle Association of America as a handgun instructor.

(a-1) The director may certify as an approved online course provider a person who has:

- (1) at least three years of experience in providing online instruction;
- (2) experience working with governmental entities; and



(3) direct knowledge of handgun training.

(b) In addition to the qualifications described by Subsection (a) or (a-1), as appropriate, a qualified handgun instructor or approved online course provider must be qualified to instruct persons in:

- (1) the laws that relate to weapons and to the use of deadly force;
- (2) handgun use, proficiency, and safety, including use of restraint holsters and methods to ensure the secure carrying of openly carried handguns;
- (3) nonviolent dispute resolution; and
- (4) proper storage practices for handguns, including storage practices that eliminate the possibility of accidental injury to a child.

(c) In the manner applicable to a person who applies for a license to carry a handgun, the department shall conduct a background check of a person who applies for certification as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would not qualify to receive a handgun license, the department may not certify the applicant as a qualified handgun instructor or approved online course provider. If the background check indicates that the applicant for certification would qualify to receive a handgun license, the department shall provide handgun instructor or online course provider training to the applicant. The applicant shall pay a fee of \$100 to the department for the training. The applicant must take and successfully complete the training offered by the department and pay the training fee before the department may certify the applicant as a qualified handgun instructor or approved online course provider. The department shall issue a license to carry a handgun under the authority of this subchapter to any person who is certified as a qualified handgun instructor or approved online course provider and who pays to the department a fee of \$40 in addition to the training fee. The department by rule may prorate or waive the training fee for an employee of another governmental entity.

(d) The certification of a qualified handgun instructor or approved online course provider expires on the second anniversary after the date of certification. To renew a certification, the qualified handgun instructor or approved online course provider must pay a fee of \$100 and take and successfully complete the retraining courses required by department rule.

(d-1) The department shall ensure that an applicant may renew certification under Subsection (d) from any county in this state by using an online format to complete the required retraining courses if:

- (1) the applicant is renewing certification for the first time; or

(2) the applicant completed the required retraining courses in person the previous time the applicant renewed certification.

(e) After certification, a qualified handgun instructor or approved online course provider may conduct training for applicants for a license under this subchapter.

(f) If the department determines that a reason exists to revoke, suspend, or deny a license to carry a handgun with respect to a person who is a qualified handgun instructor or approved online course provider or an applicant for certification as a qualified handgun instructor or approved online course provider, the department shall take that action against the person's:

(1) license to carry a handgun if the person is an applicant for or the holder of a license issued under this subchapter; and

(2) certification as a qualified handgun instructor or approved online course provider.

**Sec. 411.1901. SCHOOL SAFETY CERTIFICATION FOR QUALIFIED HANDGUN INSTRUCTORS.**

(a) The department shall establish a process to enable qualified handgun instructors certified under Section [411.190](#) to obtain an additional certification in school safety. The process must include a school safety certification course that provides training in the following:

(1) the protection of students;

(2) interaction of license holders with first responders;

(3) tactics for denying an intruder entry into a classroom or school facility; and

(4) methods for increasing a license holder's accuracy with a handgun while under duress.

(b) The school safety certification course under Subsection (a) must include not less than 15 hours and not more than 20 hours of instruction.

(c) A qualified handgun instructor certified in school safety under this section may provide school safety training, including instruction in the subjects listed under Subsection (a), to employees of a school district or an open-enrollment charter school who hold a license to carry a handgun issued under this subchapter.

(d) The department shall establish a fee in an amount that is sufficient to cover the costs of the school safety certification under this section.

(e) The department may adopt rules to administer this section.

**Sec. 411.191. REVIEW OF DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION AS QUALIFIED HANDGUN INSTRUCTOR OR APPROVED ONLINE COURSE PROVIDER.**

The procedures for the review of a denial, revocation, or suspension of a license under Section 411.180 apply to the review of a denial, revocation, or suspension of certification as a qualified handgun instructor or approved online course provider. The notice provisions of this subchapter relating to denial, revocation, or suspension of handgun licenses apply to the proposed denial, revocation, or suspension of a certification of a qualified handgun instructor or approved online course provider or an applicant for certification as a qualified handgun instructor or approved online course provider.

**Sec. 411.192. CONFIDENTIALITY OF RECORDS.**

(a) The department shall disclose to a criminal justice agency information contained in its files and records regarding whether a named individual or any individual named in a specified list is licensed under this subchapter. Information on an individual subject to disclosure under this section includes the individual's name, date of birth, gender, race, zip code, telephone number, e-mail address, and Internet website address. Except as otherwise provided by this section and by Section 411.193, all other records maintained under this subchapter are confidential and are not subject to mandatory disclosure under the open records law, Chapter 552.

(b) An applicant or license holder may be furnished a copy of disclosable records regarding the applicant or license holder on request and the payment of a reasonable fee.

(c) The department shall notify a license holder of any request that is made for information relating to the license holder under this section and provide the name of the agency making the request.

(d) The department shall make public and distribute to the public at no cost lists of individuals who are certified as qualified handgun instructors by the department and who request to be included as provided by Subsection (e) and lists of approved online course providers. The department shall include on the lists each individual's name, telephone number, e-mail address, and Internet website address. The department shall make the lists available on the department's Internet website.

(e) An individual who is certified as a qualified handgun instructor may request in writing that the department disclose all or part of the information described by

Subsection (d) regarding the individual. The department shall include all or part of the individual's information on the list as requested.

**Sec. 411.193. STATISTICAL REPORT.**

The department shall make available, on request and payment of a reasonable fee to cover costs of copying, a statistical report that includes the number of licenses issued, denied, revoked, or suspended by the department during the preceding month, listed by age, gender, race, and zip code of the applicant or license holder.

**Sec. 411.194. REDUCTION OF CERTAIN FEES DUE TO INDIGENCY.**

(a) Notwithstanding any other provision of this subchapter, if the department determines that an applicant is indigent, the department shall reduce by:

- (1) 50 percent any fee required for the issuance of a duplicate or modified license under this subchapter; and
- (2) \$5 any fee required for the issuance of a renewed license under this subchapter.

(b) The department shall require an applicant requesting a reduction of a fee to submit proof of indigency with the application materials.

(c) For purposes of this section, an applicant is indigent if the applicant's income is not more than 100 percent of the applicable income level established by the federal poverty guidelines.

**Sec. 411.195. REDUCTION OF CERTAIN FEES FOR SENIOR CITIZENS.**

Notwithstanding any other provision of this subchapter, if an applicant for the license is 60 years of age or older, the department shall reduce by:

- (1) 50 percent any fee required for the issuance of a duplicate or modified license under this subchapter; and
- (2) \$5 any fee required for the issuance of a renewed license under this subchapter.

**Sec. 411.1951. WAIVER OR REDUCTION OF FEES FOR MEMBERS OR VETERANS OF UNITED STATES ARMED FORCES.**

(a) In this section, "veteran" means a person who:

- (1) has served in:

(A) the army, navy, air force, coast guard, or marine corps of the United States;

(B) the Texas military forces as defined by Section [437.001](#); or

(C) an auxiliary service of one of those branches of the armed forces; and

(2) has been honorably discharged from the branch of the service in which the person served.

(b) Notwithstanding any other provision of this subchapter, the department shall waive any fee required for the issuance of an original, duplicate, modified, or renewed license under this subchapter if the applicant for the license is:

(1) a member of the United States armed forces, including a member of the reserves, national guard, or state guard; or

(2) a veteran who, within 365 days preceding the date of the application, was honorably discharged from the branch of service in which the person served.

(c) Notwithstanding any other provision of this subchapter, if the applicant is a veteran who, more than 365 days preceding the date of the application, was honorably discharged from the branch of the service in which the applicant served:

(1) the applicant must pay a fee of \$25 for the issuance of an original or renewed license under this subchapter; and

(2) the department shall reduce by 50 percent any fee required of the applicant for a duplicate or modified license under this subchapter.

**Sec. 411.1953. REDUCTION OF FEES FOR COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OFFICERS AND JUVENILE PROBATION OFFICERS.**

Notwithstanding any other provision of this subchapter, an applicant who is serving in this state as a supervision officer, as defined by Article [42A.001](#), Code of Criminal Procedure, or as a juvenile probation officer shall pay a fee of \$25 for the issuance of an original or renewed license under this subchapter.

**Sec. 411.1954. WAIVER OF CERTAIN FEES FOR CERTAIN APPLICANTS WHO HOLD CARDIOPULMONARY RESUSCITATION CERTIFICATION.** (a)

Notwithstanding any other provision of this subchapter, the department shall waive any fee required for the issuance of an original or renewed license under this subchapter if at the time of the application the applicant for the license submits to the department satisfactory evidence that the applicant:

(1) holds a current certification in cardiopulmonary resuscitation issued by the American Heart Association, the American Red Cross, or another nationally recognized association; and

(2) is not required to hold the certification described by Subdivision (1) as a condition of obtaining or maintaining employment or an occupational license.

(b) For purposes of Subsection (a)(2), "occupational license" means a license, certificate, registration, permit, or other form of authorization that a person must obtain to practice or engage in a particular business, occupation, or profession.

**Sec. 411.196. METHOD OF PAYMENT.**

A person may pay a fee required by this subchapter by cash, credit card, personal check, cashier's check, or money order. A person who pays a fee required by this subchapter by cash must pay the fee in person. Checks or money orders must be made payable to the "Texas Department of Public Safety." A person whose payment for a fee required by this subchapter is dishonored or reversed must pay any future fees required by this subchapter by cashier's check or money order made payable to the "Texas Department of Public Safety." A fee received by the department under this subchapter is nonrefundable.

**Sec. 411.197. RULES.**

The director shall adopt rules to administer this subchapter.

**Sec. 411.198. LAW ENFORCEMENT OFFICER ALIAS HANDGUN LICENSE.**

(a) On written approval of the director, the department may issue to a law enforcement officer an alias license to carry a handgun to be used in supervised activities involving criminal investigations.

(b) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(5), eff. September 1, 2021.

**Sec. 411.199. HONORABLY RETIRED PEACE OFFICERS.**

Text of subsection effective until January 01, 2025

(a) The following peace officers may apply for a license issued under this subchapter at any time after retirement:

(1) a person who is licensed as a peace officer under Chapter 1701, Occupations Code, and who has been employed full-time as a peace officer by a law enforcement agency;

(2) a railroad peace officer appointed by the director under Article 2.121, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or

(3) a special ranger of the Texas and Southwestern Cattle Raisers Association appointed by the director under Article 2.125, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement.

Text of subsection effective on January 01, 2025

(a) The following peace officers may apply for a license issued under this subchapter at any time after retirement:

(1) a person who is licensed as a peace officer under Chapter 1701, Occupations Code, and who has been employed full-time as a peace officer by a law enforcement agency;

(2) a railroad peace officer appointed by the director under Article 2A.005, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or

(3) a special ranger of the Texas and Southwestern Cattle Raisers Association appointed by the director under Article 2A.006, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement.

(b) The person shall submit two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency that employed the applicant or other former employer of the applicant, as applicable. A head of a law enforcement agency or other former employer may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

(1) the name and rank of the applicant;

(2) the status of the applicant before retirement;

- (3) whether the applicant was accused of misconduct at the time of the retirement;
- (4) the physical and mental condition of the applicant;
- (5) the type of weapons the applicant had demonstrated proficiency with during the last year of employment;
- (6) whether the applicant would be eligible for reemployment with the agency or employer, and if not, the reasons the applicant is not eligible;
- (7) a recommendation from the agency head or the employer regarding the issuance of a license under this subchapter; and
- (8) whether the applicant holds a current certificate of proficiency under Section [1701.357](#), Occupations Code.

(c) The department may issue a license issued under this subchapter to an applicant under this section if the applicant is honorably retired and physically and emotionally fit to possess a handgun. In this subsection, "honorably retired" means the applicant:

- (1) did not retire in lieu of any disciplinary action;
- (2) was eligible to retire from the law enforcement agency or other former employer or was ineligible to retire only as a result of an injury received in the course of the applicant's employment; and
- (3) for a peace officer described by Subsection (a)(1), is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law enforcement agency that employed the applicant does not offer a pension or annuity to its employees.

(d) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(e) An applicant under this section who complies with Subsections (b) and (c) or Subsection (g), as applicable, and with the other requirements of this subchapter is not required to complete the classroom instruction portion of the handgun proficiency course described by Section [411.188](#) to obtain a license under this subchapter.

(e-1) An applicant described by Subsection (e) who holds a current certificate of proficiency under Section [1701.357](#), Occupations Code, is not required to complete the range instruction portion of the handgun proficiency course described by Section [411.188](#) to obtain a license under this subchapter.

(f) A license issued under this subchapter to an applicant under this section expires as provided by Section [411.183](#).



(g) A retired officer of the United States who was eligible to carry a firearm in the discharge of the officer's official duties is eligible to apply under this section for a license issued under this subchapter. An applicant described by this subsection may submit the application at any time after retirement. The applicant shall submit with the application proper proof of retired status by presenting the following documents prepared by the agency from which the applicant retired:

- (1) retirement credentials; and
- (2) a letter from the agency head stating the applicant retired in good standing.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.090, eff. January 1, 2025.

**Sec. 411.1991. PEACE OFFICERS.**

(a) A person may apply for a license issued under this subchapter if the person is:

- (1) licensed as a peace officer under Chapter 1701, Occupations Code, and employed as a peace officer by a law enforcement agency;
- (2) a railroad peace officer appointed by the director under Article 2.121, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement;
- (3) a special ranger of the Texas and Southwestern Cattle Raisers Association appointed by the director under Article 2.125, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or
- (4) a member of the Texas military forces, excluding Texas State Guard members who are serving in the Texas Legislature.

Text of subsection effective on January 01, 2025

(a) A person may apply for a license issued under this subchapter if the person is:

- (1) licensed as a peace officer under Chapter 1701, Occupations Code, and employed as a peace officer by a law enforcement agency;
- (2) a railroad peace officer appointed by the director under Article 2A.005, Code of Criminal Procedure, who holds a certificate of authority issued by the director

under that article and a peace officer license issued by the Texas Commission on Law Enforcement;

(3) a special ranger of the Texas and Southwestern Cattle Raisers Association appointed by the director under Article 2A.006, Code of Criminal Procedure, who holds a certificate of authority issued by the director under that article and a peace officer license issued by the Texas Commission on Law Enforcement; or

(4) a member of the Texas military forces, excluding Texas State Guard members who are serving in the Texas Legislature.

(a-1) An applicant who is a peace officer described by Subsection (a)(1), (2), or (3) shall submit to the department:

(1) the name and rank of the applicant; and

(2) a current copy of the applicant's license issued by the Texas Commission on Law Enforcement and evidence of employment as a peace officer, railroad peace officer, or special ranger, as applicable.

(a-2) The department shall adopt rules regarding the information required to be included in an application submitted by a member of the Texas military forces under this section.

(b) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (a-1) or rules adopted under Subsection (a-2), as applicable.

(b-1) An applicant under this section who is a peace officer described by Subsection (a)(1), (2), or (3) and who complies with Subsection (a-1) and the other requirements of this subchapter is not required to complete the handgun proficiency course described by Section [411.188](#) to obtain a license issued under this subchapter.

(c) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(d) A license issued under this section expires as provided by Section [411.183](#).

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 2.091, eff. January 1, 2025.

#### **Sec. 411.1992. FORMER RESERVE LAW ENFORCEMENT OFFICERS.**

(a) A person who served as a reserve law enforcement officer, as defined by Section [1701.001](#), Occupations Code, not less than a total of 10 years of cumulative service with one or more state or local law enforcement agencies may apply for a license under this subchapter at any time.

(b) The applicant shall submit to the department two complete sets of legible and classifiable fingerprints and a sworn statement from the head of the law enforcement agency at which the applicant last served as a reserve law enforcement officer. A head of a law enforcement agency may not refuse to issue a statement under this subsection. If the applicant alleges that the statement is untrue, the department shall investigate the validity of the statement. The statement must include:

- (1) the name and rank of the applicant;
- (2) the status of the applicant;
- (3) whether the applicant was accused of misconduct at any time during the applicant's term of service and the disposition of that accusation;
- (4) a description of the physical and mental condition of the applicant;
- (5) a list of the types of weapons the applicant demonstrated proficiency with during the applicant's term of service; and
- (6) a recommendation from the agency head regarding the issuance of a license under this subchapter.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant was a reserve law enforcement officer for not less than a total of 10 years of cumulative service with one or more state or local law enforcement agencies and is physically and emotionally fit to possess a handgun.

(d) An applicant under this section must pay a fee of \$25 for a license issued under this subchapter.

(e) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. [1552](#)), Sec. 7(1), eff. September 1, 2019.

(f) A license issued under this section expires as provided by Section [411.183](#).

### **Sec. 411.1993. COUNTY JAILERS.**

(a) In this section, "county jailer" has the meaning assigned by Section [1701.001](#), Occupations Code.

(b) A county jailer who holds a county jailer license issued under Chapter [1701](#), Occupations Code, may apply for a license under this subchapter.

(c) An applicant under this section who is a county jailer shall submit to the department:

- (1) the name and job title of the applicant;
- (2) a current copy of the applicant's county jailer license and evidence of employment as a county jailer; and

(3) evidence that the applicant has satisfactorily completed the preparatory training program required under Section 1701.310, Occupations Code, including the demonstration of weapons proficiency required as part of the training program under Section 1701.307 of that code.

(d) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (c) and meets all other requirements of this subchapter, except that the applicant is not required to complete the range instruction part of the handgun proficiency course described by Section 411.188 if the department is satisfied, on the basis of the evidence provided under Subsection (c)(3), that the applicant is proficient in the use of handguns.

(e) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(f) A license issued to an applicant under this section expires as provided by Section 411.183.

#### **Sec. 411.1994. STATE CORRECTIONAL OFFICERS.**

(a) A correctional officer of the Texas Department of Criminal Justice may apply for a license under this subchapter.

(b) An applicant under this section shall submit to the department:

(1) the name and job title of the applicant;

(2) evidence of employment as a correctional officer of the Texas Department of Criminal Justice; and

(3) evidence that the applicant has satisfactorily completed the correctional officer training program offered by the Texas Department of Criminal Justice, including a demonstration of weapons proficiency.

(c) The department may issue a license under this subchapter to an applicant under this section if the applicant complies with Subsection (b) and meets all other requirements of this subchapter, except that the applicant is not required to complete the range instruction part of the handgun proficiency course described by Section 411.188 if the department is satisfied, on the basis of the evidence provided under Subsection (b)(3), that the applicant is proficient in the use of handguns.

(d) The department shall waive any fee required for a license issued under this subchapter to an applicant under this section.

(e) A license issued to an applicant under this section expires as provided by Section 411.183.

**Sec. 411.200. APPLICATION TO LICENSED SECURITY OFFICERS.**

This subchapter does not exempt a license holder who is also employed as a security officer and licensed under Chapter 1702, Occupations Code, from the duty to comply with Chapter 1702, Occupations Code, or Section 46.02, Penal Code.

**Sec. 411.201. ACTIVE AND RETIRED JUDICIAL OFFICERS; CERTAIN COURT OFFICERS**

(a) In this section:

(1) "Active judicial officer" means:

(A) a person serving 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) a federal judge who is a resident of this state; or

(C) a person appointed and serving as an associate judge under Chapter 201, Family Code.

(2) "Federal judge" means:

(A) a judge of a United States court of appeals;

(B) a judge of a United States district court;

(C) a judge of a United States bankruptcy court; or

(D) a magistrate judge of a United States district court.

(3) "Retired judicial officer" means:

(A) a visiting judge appointed under Section 26.023 or 26.024;

(B) a senior judge designated under Section 75.001 or a judicial officer as designated or defined by Section 75.001, 831.001, or 836.001; or

(C) a retired federal judge who is a resident of this state.

(b) Notwithstanding any other provision of this subchapter, the department shall issue a license under this subchapter to an active or retired judicial officer who meets the requirements of this section.

(c) An active judicial officer is eligible for a license to carry a handgun under the authority of this subchapter. A retired judicial officer is eligible for a license to carry a handgun under the authority of this subchapter if the officer:

(1) has not been convicted of a felony;

(2) has not, in the five years preceding the date of application, been convicted of a Class A or Class B misdemeanor or equivalent offense;

(3) is not charged with the commission of a Class A or Class B misdemeanor or equivalent offense or of a felony under an information or indictment;

(4) is not a chemically dependent person; and

(5) is not a person of unsound mind.

(d) An applicant for a license who is an active or retired judicial officer must submit to the department:

(1) a completed application, including all required affidavits, on a form prescribed by the department;

(2) one or more photographs of the applicant that meet the requirements of the department;

(3) two complete sets of legible and classifiable fingerprints of the applicant, including one set taken by a person employed by a law enforcement agency who is appropriately trained in recording fingerprints;

(4) evidence of handgun proficiency, in the form and manner required by the department for an applicant under this section;

(5) a nonrefundable application and license fee of \$25; and

(6) if the applicant is a retired judicial officer, a form executed by the applicant that authorizes the department to make an inquiry into any noncriminal history records that are necessary to determine the applicant's eligibility for a license under this subchapter.

(e) On receipt of all the application materials required by this section, the department shall:

(1) if the applicant is an active judicial officer, issue a license to carry a handgun under the authority of this subchapter; or

(2) if the applicant is a retired judicial officer, conduct an appropriate background investigation to determine the applicant's eligibility for the license and, if the applicant is eligible, issue a license to carry a handgun under the authority of this subchapter.

(f) Except as otherwise provided by this subsection, an applicant for a license under this section must satisfy the handgun proficiency requirements of Section [411.188](#). The classroom instruction part of the proficiency course for an active judicial officer is not subject to a minimum hour requirement. The instruction must include instruction only on:

(1) handgun use, proficiency, and safety; and

(2) proper storage practices for handguns with an emphasis on storage practices that eliminate the possibility of accidental injury to a child.

(g) A license issued under this section expires as provided by Section [411.183](#) and may be renewed in accordance with Section [411.185](#).

(h) The department shall issue a license to carry a handgun under the authority of this subchapter to an applicant who meets the requirements of this section for an active judicial officer and who is a United States attorney or an assistant United States attorney, an attorney elected or employed to represent the state in the prosecution of felony cases, or a district or county clerk. The department shall waive any fee required for the issuance of an original, duplicate, or renewed license under this subchapter for an applicant who is a United States attorney or an assistant United States attorney, an attorney elected or employed to represent the state in the prosecution of felony cases, or a district or county clerk.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. [599](#)), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. [599](#)), Sec. 3, eff. September 1, 2023.

#### **Sec. 411.202. LICENSE A BENEFIT.**

The issuance of a license under this subchapter is a benefit to the license holder for purposes of those sections of the Penal Code to which the definition of "benefit" under Section [1.07](#), Penal Code, applies.

#### **Sec. 411.203. RIGHTS OF EMPLOYERS.**

This subchapter does not prevent or otherwise limit the right of a public or private employer to prohibit persons who are licensed under this subchapter from carrying a handgun on the premises of the business. In this section, "premises" has the meaning assigned by Section [46.03](#), Penal Code.

#### **Sec. 411.2031. CARRYING OF HANDGUNS BY LICENSE HOLDERS ON CERTAIN CAMPUSES.**

(a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section [61.003](#), Education Code.

(3) "Premises" has the meaning assigned by Section [46.03](#), Penal Code.

(b) A license holder may carry a concealed handgun on or about the license holder's person while the license holder is on the campus of an institution of higher education or private or independent institution of higher education in this state.

(c) Except as provided by Subsection (d), (d-1), or (e), an institution of higher education or private or independent institution of higher education in this state may not adopt any rule, regulation, or other provision prohibiting license holders from carrying handguns on the campus of the institution.

(d) An institution of higher education or private or independent institution of higher education in this state may establish rules, regulations, or other provisions concerning the storage of handguns in dormitories or other residential facilities that are owned or leased and operated by the institution and located on the campus of the institution.

(d-1) After consulting with students, staff, and faculty of the institution regarding the nature of the student population, specific safety considerations, and the uniqueness of the campus environment, the president or other chief executive officer of an institution of higher education in this state shall establish reasonable rules, regulations, or other provisions regarding the carrying of concealed handguns by license holders on the campus of the institution or on premises located on the campus of the institution. The president or officer may not establish provisions that generally prohibit or have the effect of generally prohibiting license holders from carrying concealed handguns on the campus of the institution. The president or officer may amend the provisions as necessary for campus safety. The provisions take effect as determined by the president or officer unless subsequently amended by the board of regents or other governing board under Subsection (d-2). The institution must give effective notice under Section [30.06](#), Penal Code, with respect to any portion of a premises on which license holders may not carry.

(d-2) Not later than the 90th day after the date that the rules, regulations, or other provisions are established as described by Subsection (d-1), the board of regents or other governing board of the institution of higher education shall review the provisions. The board of regents or other governing board may, by a vote of not less than two-thirds of the board, amend wholly or partly the provisions established under Subsection (d-1). If amended under this subsection, the provisions are considered to be those of the institution as established under Subsection (d-1).

(d-3) An institution of higher education shall widely distribute the rules, regulations, or other provisions described by Subsection (d-1) to the institution's



students, staff, and faculty, including by prominently publishing the provisions on the institution's Internet website.

(d-4) Not later than September 1 of each even-numbered year, each institution of higher education in this state shall submit a report to the legislature and to the standing committees of the legislature with jurisdiction over the implementation and continuation of this section that:

(1) describes its rules, regulations, or other provisions regarding the carrying of concealed handguns on the campus of the institution; and

(2) explains the reasons the institution has established those provisions.

(e) A private or independent institution of higher education in this state, after consulting with students, staff, and faculty of the institution, may establish rules, regulations, or other provisions prohibiting license holders from carrying handguns on the campus of the institution, any grounds or building on which an activity sponsored by the institution is being conducted, or a passenger transportation vehicle owned by the institution.

**Sec. 411.2032. TRANSPORTATION AND STORAGE OF FIREARMS AND AMMUNITION BY LICENSE HOLDERS IN PRIVATE VEHICLES ON CERTAIN CAMPUSES.**

(a) For purposes of this section:

(1) "Campus" means all land and buildings owned or leased by an institution of higher education or private or independent institution of higher education.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section [61.003](#), Education Code.

(b) An institution of higher education or private or independent institution of higher education in this state may not adopt or enforce any rule, regulation, or other provision or take any other action, including posting notice under Section [30.06](#) or [30.07](#), Penal Code, prohibiting or placing restrictions on the storage or transportation of a firearm or ammunition in a locked, privately owned or leased motor vehicle by a person, including a student enrolled at that institution, who holds a license to carry a handgun under this subchapter and lawfully possesses the firearm or ammunition:

(1) on a street or driveway located on the campus of the institution; or

(2) in a parking lot, parking garage, or other parking area located on the campus of the institution.

**Sec. 411.204. NOTICE REQUIRED ON CERTAIN PREMISES.**

(a) A business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code, shall prominently display at each entrance to the business premises a sign that complies with the requirements of Subsection (c).

(b) A hospital licensed under Chapter 241, Health and Safety Code, or a nursing home licensed under Chapter 242, Health and Safety Code, shall prominently display at each entrance to the hospital or nursing home, as appropriate, a sign that complies with the requirements of Subsection (c) other than the requirement that the sign include on its face the number "51".

(c) The sign required under Subsections (a) and (b) must give notice in both English and Spanish that it is unlawful for a person licensed under this subchapter to carry a handgun on the premises. The sign must appear in contrasting colors with block letters at least one inch in height and must include on its face the number "51" printed in solid red at least five inches in height. The sign shall be displayed in a conspicuous manner clearly visible to the public.

(d) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(6), eff. September 1, 2021.

(e) This section does not apply to a business that has a food and beverage certificate issued under the Alcoholic Beverage Code.

**Sec. 411.205. REQUIREMENT TO DISPLAY LICENSE.**

If a license holder is carrying a handgun on or about the license holder's person when a magistrate or a peace officer demands that the license holder display identification, the license holder shall display:

(1) both the license holder's driver's license or identification certificate issued by the department and the license holder's handgun license.

(2) If the license holder's handgun license bears a protective order designation, a copy of the applicable court order under which the license holder is protected.

**Sec. 411.206. SEIZURE OF HANDGUN AND LICENSE.**

(a) If a peace officer arrests and takes into custody a license holder who is carrying a handgun under the authority of this subchapter, the officer shall seize the license holder's handgun and license as evidence.

(b) The provisions of Article 18.19, Code of Criminal Procedure, relating to the disposition of weapons seized in connection with criminal offenses, apply to a handgun seized under this subsection.

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(7), eff. September 1, 2021.

#### **Sec. 411.207. AUTHORITY OF PEACE OFFICER TO DISARM.**

(a) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a license holder at any time the officer reasonably believes it is necessary for the protection of the license holder, officer, or another individual. The peace officer shall return the handgun to the license holder before discharging the license holder from the scene if the officer determines that the license holder is not a threat to the officer, license holder, or another individual and if the license holder has not violated any provision of this subchapter or committed any other violation that results in the arrest of the license holder.

(b) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a license holder when a license holder enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker where the peace officer can secure the license holder's handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the license holder immediately after the license holder leaves the nonpublic, secure portion of the law enforcement facility.

(c) A law enforcement facility shall prominently display at each entrance to a nonpublic, secure portion of the facility a sign that gives notice in both English and Spanish that, under this section, a peace officer may temporarily disarm a license holder when the license holder enters the nonpublic, secure portion of the facility. The sign must appear in contrasting colors with block letters at least one inch in height. The sign shall be displayed in a clearly visible and conspicuous manner.

(d) In this section:

(1) "Law enforcement facility" means a building or a portion of a building used exclusively by a law enforcement agency that employs peace officers as described by Articles 2.12(1) and (3), Code of Criminal Procedure, and support personnel to conduct the official business of the agency. The term does not include:

(A) any portion of a building not actively used exclusively to conduct the official business of the agency; or

(B) any public or private driveway, street, sidewalk, walkway, parking lot, parking garage, or other parking area.

(2) "Nonpublic, secure portion of a law enforcement facility" means that portion of a law enforcement facility to which the general public is denied access without express permission and to which access is granted solely to conduct the official business of the law enforcement agency.

#### **Sec. 411.208. LIMITATION OF LIABILITY.**

(a) A court may not hold the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, a qualified handgun instructor, or an approved online course provider liable for damages caused by:

(1) an action authorized under this subchapter or a failure to perform a duty imposed by this subchapter; or

(2) the actions of an applicant or license holder that occur after the applicant has received a license or been denied a license under this subchapter.

(b) A cause of action in damages may not be brought against the state, an agency or subdivision of the state, an officer or employee of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section 411.2031(e), a peace officer, a qualified handgun instructor, or an approved online course provider for any damage caused by the actions of an applicant or license holder under this subchapter.

(c) The department is not responsible for any injury or damage inflicted on any person by an applicant or license holder arising or alleged to have arisen from an action taken by the department under this subchapter.

(d) The immunities granted under Subsections (a), (b), and (c) do not apply to:

(1) an act or a failure to act by the state, an agency or subdivision of the state, an officer of the state, an institution of higher education, an officer or employee of an institution of higher education, a private or independent institution of higher

education that has not adopted rules under Section [411.2031\(e\)](#), an officer or employee of a private or independent institution of higher education that has not adopted rules under Section [411.2031\(e\)](#), or a peace officer if the act or failure to act was capricious or arbitrary; or

(2) any officer or employee of an institution of higher education or private or independent institution of higher education described by Subdivision (1) who possesses a handgun on the campus of that institution and whose conduct with regard to the handgun is made the basis of a claim for personal injury or property damage.

(e) The immunities granted under Subsection (a) to a qualified handgun instructor or approved online course provider do not apply to a cause of action for fraud or a deceptive trade practice.

(f) For purposes of this section:

(1) "Campus" has the meaning assigned by Section [411.2031](#).

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section [61.003](#), Education Code.

**Sec. 411.209. WRONGFUL EXCLUSION OF HANDGUN LICENSE HOLDER.**

(a) Except as provided by Subsection (i), a state agency or a political subdivision of the state may not take any action, including an action consisting of the provision of notice by a communication described by Section 30.06 or 30.07, Penal Code, that states or implies that a license holder who is carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03, Penal Code, or other law.

(b) A state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:

(1) not less than \$1,000 and not more than \$1,500 for the first violation;  
and

(2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

(c) Each day of a continuing violation of Subsection (a) constitutes a separate violation.

(d) A resident of this state or a person licensed to carry a handgun under this subchapter may file a complaint with the attorney general that a state agency or political subdivision is in violation of Subsection (a) if the resident or license holder provides the agency or subdivision a written notice that describes the location and general facts of the violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. A complaint filed with the attorney general under this subsection must include evidence of the violation and a copy of the written notice provided to the agency or subdivision.

(e) A civil penalty collected by the attorney general under this section shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter 56B, Code of Criminal Procedure.

(f) Before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), the attorney general must investigate the complaint to determine whether legal action is warranted. If legal action is warranted, the attorney general must give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:

(1) describes the violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the agency or political subdivision 15 days from receipt of the notice to cure the violation to avoid the penalty, unless the agency or political subdivision was found liable by a court for previously violating Subsection (a).

(g) If the attorney general determines that legal action is warranted and that the state agency or political subdivision has not cured the violation within the 15-day period provided by Subsection (f)(3), the attorney general or the appropriate county or district attorney may sue to collect the civil penalty provided by Subsection (b). The attorney general may also file a petition for a writ of mandamus or apply for other appropriate equitable relief. A suit or petition under this subsection may be filed in a district court in Travis County or in a county in which the principal office of the state agency or political subdivision is located. The attorney general may recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) Sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

(i) Subsection (a) does not apply to a written notice provided by a state hospital under Section [552.002](#), Health and Safety Code.

(j) In this section, "premises" has the meaning assigned by Section [46.03](#), Penal Code.

# 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.

##### **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.

### **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.

### **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.

**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 dispossession and:

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

(2) the other accomplished the dispossession 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.

#### **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.

### **TITLE 7. OFFENSES AGAINST PROPERTY**

#### **CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS**

##### **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 assigned by Section [13.087](#), Water Code.

(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.

(13) "General residential operation" has the meaning assigned by Section [42.002](#), Human Resources Code.

(c) A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:

(1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";

(2) includes the language described by Subdivision (1) in both English and Spanish;

(3) appears in contrasting colors with block letters at least one inch in height; and

(4) is displayed in a conspicuous manner clearly visible to the public.

(d) Subject to Subsection (d-3), 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;

(C) the person carries a deadly weapon during the commission of the offense; or

(D) the offense is committed on the property of or within a general residential operation operating as a residential treatment center.

(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.

(d-3) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if the person enters the property, land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, land, or building with the firearm or other weapon, the actor:

(1) personally received from the owner of the property or another person with apparent authority to act for the owner notice that entry with a firearm or other weapon was forbidden, as given through:

(A) notice under Subsection (b)(2)(A), including oral or written communication; or

(B) if the actor is unable to reasonably understand the notice described by Paragraph (A), other personal notice that is reasonable under the circumstances; and

(2) subsequently failed to depart.

(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 121.001, 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 holster.

(f-1) It is a defense to prosecution under this section that:

(1) the basis on which entry on the property was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;

(B) an owner of a condominium unit governed by Chapter 82, Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B);

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the condominium apartment or unit owner's apartment or unit;

(B) carries a firearm or firearm ammunition directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for residents or guests of the condominium property; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

(f-2) It is a defense to prosecution under this section that:

(1) the basis on which entry on a leased premises governed by Chapter 92, Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a tenant of the leased premises or the tenant's guest;

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the tenant's rental unit;

(B) carries a firearm or firearm ammunition directly en route to or from the tenant's rental unit;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

(f-3) It is a defense to prosecution under this section that:

(1) the basis on which entry on a leased premises governed by Chapter 94, Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a tenant of a manufactured home lot or the tenant's guest;

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the tenant's manufactured home;

(B) carries a firearm or firearm ammunition directly en route to or from the tenant's manufactured home;

(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; and

(4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

(f-4) It is a defense to prosecution under this section that:

(1) the conduct occurred on hotel property, and the basis on which entry on that property was forbidden is that entry with a firearm or firearm ammunition was forbidden;

(2) the actor is a guest of a hotel, as defined by Section 2155.101, Occupations Code; and

(3) the actor:

(A) carries or stores a firearm or firearm ammunition in the actor's hotel room;

(B) carries a firearm or firearm ammunition directly en route to or from the hotel or the actor's hotel room;



(C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests; or

(D) carries or stores a firearm or firearm ammunition in the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests.

(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.

### **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 46.03.
- (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.

(e-1) It is a defense to prosecution under this section that:

(1) the license holder is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;

(B) an owner of a condominium unit governed by Chapter 82, Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B); and

(2) the license holder:

(A) carries or stores a handgun in the condominium apartment or unit owner's apartment or unit;

(B) carries a handgun directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for residents or guests of the condominium property.

(e-2) It is a defense to prosecution under this section that:

(1) the license holder is a tenant of a leased premises governed by Chapter 92, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's rental unit;

(B) carries a handgun directly en route to or from the tenant's rental unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises.

(e-3) It is a defense to prosecution under this section that:

(1) the license holder is a tenant of a manufactured home lot governed by Chapter 94, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's manufactured home;

(B) carries a handgun directly en route to or from the tenant's manufactured home;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises.

(e-4) It is a defense to prosecution under this section that the license holder is a guest of a hotel, as defined by Section 2155.101, Occupations Code, and the license holder:

- (1) carries or stores a handgun in the license holder's hotel room;
- (2) carries a handgun directly en route to or from the hotel or the license holder's hotel room;
- (3) carries a handgun directly en route to or from the license holder's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests; or
- (4) carries or stores a handgun in the license holder's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests.

(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.

(g) It is a defense to prosecution under this section that the license holder was personally given notice by oral communication described by Subsection (b) and promptly departed from the property.

### **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 46.03.
  - (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.

(e-1) It is a defense to prosecution under this section that:

(1) the license holder is:

(A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;

(B) an owner of a condominium unit governed by Chapter 82, Property Code;

(C) a tenant or guest of an owner described by Paragraph (A) or (B); or

(D) a guest of a tenant of an owner described by Paragraph (A) or (B); and

(2) the license holder:

(A) carries or stores a handgun in the condominium apartment or unit owner's apartment or unit;

(B) carries a handgun directly en route to or from the condominium apartment or unit owner's apartment or unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for residents or guests of the condominium property; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for residents or guests of the condominium property.

(e-2) It is a defense to prosecution under this section that:

(1) the license holder is a tenant of a leased premises governed by Chapter 92, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's rental unit;

(B) carries a handgun directly en route to or from the tenant's rental unit;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises.

(e-3) It is a defense to prosecution under this section that:

(1) the license holder is a tenant of a manufactured home lot governed by Chapter 94, Property Code, or the tenant's guest; and

(2) the license holder:

(A) carries or stores a handgun in the tenant's manufactured home;

(B) carries a handgun directly en route to or from the tenant's manufactured home;

(C) carries a handgun directly en route to or from the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or

(D) carries or stores a handgun in the license holder's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises.

(e-4) It is a defense to prosecution under this section that the license holder is a guest of a hotel, as defined by Section 2155.101, Occupations Code, and the license holder:

(1) carries or stores a handgun in the license holder's hotel room;

(2) carries a handgun directly en route to or from the hotel or the license holder's hotel room;

(3) carries a handgun directly en route to or from the license holder's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests; or

(4) carries or stores a handgun in the license holder's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests.

(f) It is not a defense to prosecution under this section that the handgun was carried in a 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](#).

(h) It is a defense to prosecution under this section that the license holder was personally given notice by oral communication described by Subsection (b) and promptly departed from the property.

## **TITLE 10. OFFENSES AGAINST PUBLIC HEALTH, SAFETY, AND MORALS**

### **CHAPTER 46. WEAPONS**

#### **Sec. 46.01. DEFINITIONS.** In this chapter:

(1) "Club" means an instrument that is specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, and includes but is not limited to the following:

- (A) blackjack;
- (B) nightstick;
- (C) mace;
- (D) tomahawk.

(2) "Explosive weapon" means any explosive or incendiary bomb, grenade, rocket, or mine, 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 device designed, made, or adapted for delivery or shooting an explosive weapon.

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm does not include a firearm that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

(A) an antique or curio firearm manufactured before 1899; or  
(B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

(4) "Firearm silencer" means any device designed, made, or adapted to muffle the report of a firearm.

(5) "Handgun" means any firearm that is designed, made, or adapted to be fired with one hand.

(6) "Location-restricted knife" means a knife with a blade over five and one-half inches.

(7) "Knife" means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument.

(8) Repealed by Acts 2019, 86th Leg., R.S., Ch. 216 (H.B. [446](#)), Sec. 4, eff. September 1, 2019.

(9) "Machine gun" means any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger.

(10) "Short-barrel firearm" means a rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a shotgun or rifle if, as altered, it has an overall length of less than 26 inches.

(11) Repealed by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 15.002, eff. September 1, 2017.

(12) "Armor-piercing ammunition" means handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used principally in pistols and revolvers.

(13) "Hoax bomb" means a device that:

(A) reasonably appears to be an explosive or incendiary device;  
or

(B) by its design causes alarm or reaction of any type by an official of a public safety agency or a volunteer agency organized to deal with emergencies.

(14) "Chemical dispensing device" means a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a substance capable of causing an adverse psychological or physiological effect on a human being.

(15) "Racetrack" has the meaning assigned that term by Section [2021.003\(41\)](#), Occupations Code.



(16) "Zip gun" means a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance.

(17) "Tire deflation device" means a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires. The term does not include a traffic control device that:

(A) is designed to puncture one or more of a vehicle's tires when driven over in a specific direction; and

(B) has a clearly visible sign posted in close proximity to the traffic control device that prohibits entry or warns motor vehicle operators of the traffic control device.

(18) "Volunteer emergency services personnel" includes a volunteer firefighter, an emergency medical services volunteer as defined by Section [773.003](#), Health and Safety Code, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Section [1701.001](#), Occupations Code, who is performing law enforcement duties.

(19) "Improvised explosive device" means a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. The term does not include:

(A) unassembled components that can be legally purchased and possessed without a license, permit, or other governmental approval; or

(B) an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive.

(20) "First responder" means a public safety employee whose duties include responding rapidly to an emergency. The term includes fire protection personnel as defined by Section 419.021, Government Code, and emergency medical services personnel as defined by Section [773.003](#), Health and Safety Code. The term does not include:

(A) volunteer emergency services personnel;

(B) an emergency medical services volunteer, as defined by Section [773.003](#), Health and Safety Code; or

(C) a peace officer or reserve law enforcement officer, as those terms are defined by Section 1701.001, Occupations Code, who is performing law enforcement duties.

**Sec. 46.02. UNLAWFUL CARRYING WEAPONS.**

(a) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

(2) at the time of the offense:

(A) is younger than 21 years of age; or

(B) has been convicted of an offense under Section 22.01(a)(1), 22.05, 22.07, or 42.01(a)(7) or (8) committed in the five-year period preceding the date the instant offense was committed; and

(3) is not:

(A) on the person's own premises or premises under the person's control; or

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(1) the handgun is in plain view, unless the person is 21 years of age or older or is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a holster; or

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating; or

(B) prohibited by law from possessing a firearm.

(a-2) For purposes of this section, "premises" includes real property and a recreational vehicle that is being used as living quarters, regardless of whether that use is temporary or permanent. In this subsection, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters or a vehicle that contains temporary living quarters and is designed to be towed by a motor vehicle. The term

includes a travel trailer, camping trailer, truck camper, motor home, and horse trailer with living quarters.

(a-3) For purposes of this section, "watercraft" means any boat, motorboat, vessel, or personal watercraft, other than a seaplane on water, used or capable of being used for transportation on water.

(a-4) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;

(2) is younger than 18 years of age at the time of the offense; and

(3) is not:

(A) on the person's own premises or premises under the person's control;

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control; or

(C) under the direct supervision of a parent or legal guardian of the person.

(a-5) A person commits an offense if the person carries a handgun and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was carried in a holster.

(a-6) A person commits an offense if the person:

(1) carries a handgun while the person is intoxicated; and

(2) is not:

(A) on the person's own property or property under the person's control or on private property with the consent of the owner of the property; or

(B) inside of or directly en route to a motor vehicle or watercraft:

(i) that is owned by the person or under the person's control; or

(ii) with the consent of the owner or operator of the vehicle or watercraft.

(a-7) A person commits an offense if the person:

(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun;

(2) is not:

(A) on the person's own premises or premises under the person's control; or

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control; and

(3) at the time of the offense, was prohibited from possessing a firearm under Section 46.04(a), (b), or (c).

(a-8) If conduct constituting an offense under Subsection (a-7) constitutes an offense under another provision of law, the actor may be prosecuted under Subsection (a-7) or under both provisions.

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

(c) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(8), eff. September 1, 2021.

(d) An offense under Subsection (a-4) is a Class C misdemeanor.

(e) An offense under Subsection (a-7) is:

(1) a felony of the second degree with a minimum term of imprisonment of five years, if the actor was prohibited from possessing a firearm under Section 46.04(a); or

(2) a felony of the third degree, if the actor was prohibited from possessing a firearm under Section 46.04(b) or (c).

### **Sec. 46.03. PLACES WEAPONS PROHIBITED.**

(a) A person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05(a):

(1) on the premises of a school or postsecondary educational institution, on any grounds or building owned by and under the control of a school or postsecondary educational institution and on which an activity sponsored by the school or institution is being conducted, or in a passenger transportation vehicle of a school or postsecondary educational institution, whether the school or postsecondary educational institution is public or private, unless:

(A) pursuant to written regulations or written authorization of the school or institution; or

(B) the person possesses or goes with a concealed handgun that the person is licensed to carry under Subchapter H, Chapter 411, Government Code, and no other weapon to which this section applies, on the premises of a postsecondary educational institution, on any grounds or building owned by and under the control of

the institution and on which an activity sponsored by the institution is being conducted, or in a passenger transportation vehicle of the institution;

(2) on the premises of a polling place on the day of an election or while early voting is in progress;

(3) on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court;

(4) on the premises of a racetrack;

(5) in or into a secured area of an airport;

(6) within 1,000 feet of premises the location of which is designated by the Texas Department of Criminal Justice as a place of execution under Article 43.19, Code of Criminal Procedure, on a day that a sentence of death is set to be imposed on the designated premises and the person received notice that:

(A) going within 1,000 feet of the premises with a weapon listed under this subsection was prohibited; or

(B) possessing a weapon listed under this subsection within 1,000 feet of the premises was prohibited;

(7) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;

(8) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the person is a participant in the event and a firearm, location-restricted knife, club, or prohibited weapon listed in Section 46.05(a) is used in the event;

(9) on the premises of a correctional facility;

(10) on the premises of a civil commitment facility;

(11) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the person has written authorization of the hospital or nursing facility administration, as appropriate;

(12) on the premises of a mental hospital, as defined by Section 571.003, Health and Safety Code, unless the person has written authorization of the mental hospital administration;

(13) in an amusement park; or

(14) in the room or rooms where a meeting of a governmental entity is held, if the meeting is an open meeting subject to Chapter 551, Government Code, and if the entity provided notice as required by that chapter.

(a-1) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(9), eff. September 1, 2021.

(a-2) Notwithstanding Section 46.02(a-5), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:

(1) on the premises of an institution of higher education or private or independent institution of higher education; or

(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.

(a-3) Notwithstanding Subsection (a) or Section 46.02(a-5), a license holder commits an offense if the license holder carries a handgun on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns pursuant to Section 411.2031(e), Government Code, or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice under Section 30.06.

(a-4) Notwithstanding Subsection (a) or Section 46.02(a-5), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Section 411.2031(d-1), Government Code, provided the institution gives effective notice under Section 30.06 with respect to that portion.

(b) It is a defense to prosecution under Subsections (a)(1)-(4) that the actor possessed a firearm while in the actual discharge of his official duties as a member of the armed forces or national guard or a guard employed by a penal institution, or an officer of the court.

(c) In this section:

(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(2) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.

(3) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(3-a) "Postsecondary educational institution" means an institution of higher education or a private or independent institution of higher education.

(4) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

(4-a) "School" means an accredited primary or secondary school.

(5) "Secured area" means an area of an airport terminal building to which access is controlled by the inspection of persons and property under federal law, or an aircraft parking area that is used by common carriers in air transportation but not by general aviation and to which access is controlled under federal law. The term does not include a baggage claim area, a motor vehicle parking area used by passengers, employees, or persons awaiting an arrival, or an area used by the public to pick up or drop off passengers or employees.

(d) It is a defense to prosecution under Subsection (a)(5) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as:

- (1) a member of the armed forces or national guard;
- (2) a guard employed by a penal institution; or
- (3) a security officer commissioned by the Texas Private Security Board

if:

- (A) the actor is wearing a distinctive uniform; and
- (B) the firearm or club is in plain view; or

(4) a security officer who holds a personal protection authorization under Chapter 1702, Occupations Code, provided that the officer is either:

(A) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's firearm in plain view; or

(B) not wearing the uniform of a security officer and carrying the officer's firearm in a concealed manner.

(e) It is a defense to prosecution under Subsection (a)(5) that the actor:

(1) checked all firearms as baggage in accordance with federal or state law or regulations before entering a secured area; or

(2) was authorized by a federal agency or the airport operator to possess a firearm in a secured area.

(e-1) It is a defense to prosecution under Subsection (a)(5) that the actor:

(1) possessed, at the screening checkpoint for the secured area, a handgun that the actor was licensed to carry under Subchapter H, Chapter 411, Government Code; and

(2) exited the screening checkpoint for the secured area immediately upon completion of the required screening processes and notification that the actor possessed the handgun.

(e-2) A peace officer investigating conduct that may constitute an offense under Subsection (a)(5) and that consists only of an actor's possession of a handgun that the actor is licensed to carry under Subchapter H, Chapter 411, Government Code, may not arrest the actor for the offense unless:

(1) the officer advises the actor of the defense available under Subsection (e-1) and gives the actor an opportunity to exit the screening checkpoint for the secured area; and

(2) the actor does not immediately exit the checkpoint upon completion of the required screening processes.

(f) Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.

(g) Except as provided by Subsections (g-1) and (g-2), an offense under this section is a felony of the third degree.

(g-1) If the weapon that is the subject of the offense is a location-restricted knife, an offense under this section is a Class C misdemeanor, except that the offense is a felony of the third degree if the offense is committed under Subsection (a)(1).

(g-2) An offense committed under Subsection (a)(8), (a)(10), (a)(11), (a)(13), (a-2), (a-3), or (a-4) is a Class A misdemeanor.



(h) It is a defense to prosecution under Subsection (a)(4) that the actor possessed a firearm or club while traveling to or from the actor's place of assignment or in the actual discharge of duties as a security officer commissioned by the Texas Board of Private Investigators and Private Security Agencies, if:

- (1) the actor is wearing a distinctive uniform; and
- (2) the firearm or club is in plain view.

(i) It is an exception to the application of Subsection (a)(6) that the actor possessed a firearm or club:

- (1) while in a vehicle being driven on a public road; or
- (2) at the actor's residence or place of employment.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 182 (H.B. 1760), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 182 (H.B. 1760), Sec. 2, eff. September 1, 2023.

*Without reference to the amendment of this section, this section was repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(10), eff. September 1, 2021.*

**Sec. 46.035. UNLAWFUL CARRYING OF HANDGUN BY LICENSE HOLDER.**

(a) A license holder commits an offense if the license holder carries a handgun on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person in a public place. It is an exception to the application of this subsection that the handgun was partially or wholly visible but was:

- (1) carried in a holster by the license holder; or
- (2) in a holster, and the handgun and the license holder were in a motor

vehicle.

~~Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 47~~

~~(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally displays the handgun in plain view of another person:~~

~~(1) on the premises of an institution of higher education or private or independent institution of higher education; or~~

~~(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.~~

~~Text of subsection as added by Acts 2015, 84th Leg., R.S., Ch. 438 (S.B. 11), Sec. 4~~

~~(a-1) Notwithstanding Subsection (a), a license holder commits an offense if the license holder carries a partially or wholly visible handgun, regardless of whether the handgun is holstered, on or about the license holder's person under the authority of Subchapter H, Chapter 411, Government Code, and intentionally or knowingly displays the handgun in plain view of another person:~~

~~(1) on the premises of an institution of higher education or private or independent institution of higher education; or~~

~~(2) on any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education or private or independent institution of higher education.~~

~~(a-2) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder carries a handgun on the campus of a private or independent institution of higher education in this state that has established rules, regulations, or other provisions prohibiting license holders from carrying handguns pursuant to Section 411.2031(e), Government Code, or on the grounds or building on which an activity sponsored by such an institution is being conducted, or in a passenger transportation vehicle of such an institution, regardless of whether the handgun is concealed, provided the institution gives effective notice under Section 30.06.~~

~~(a-3) Notwithstanding Subsection (a) or Section 46.03(a), a license holder commits an offense if the license holder intentionally carries a concealed handgun on a portion of a premises located on the campus of an institution of higher education in this state on which the carrying of a concealed handgun is prohibited by rules, regulations, or other provisions established under Section 411.2031(d-1), Government Code, provided the institution gives effective notice under Section 30.06 with respect to that portion.~~

~~(b) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a holster, on or about the license holder's person:~~

~~(1) on the premises of a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, if the business derives 51 percent or more of its income from the sale or service of alcoholic beverages for on-premises consumption, as determined by the Texas Alcoholic Beverage Commission under Section 104.06, Alcoholic Beverage Code;~~

~~(2) on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless the license holder is a participant in the event and a handgun is used in the event;~~

~~(3) on the premises of a correctional facility;~~

~~(4) on the premises of a hospital licensed under Chapter 241, Health and Safety Code, or on the premises of a nursing facility licensed under Chapter 242, Health and Safety Code, unless the license holder has written authorization of the hospital or nursing facility administration, as appropriate;~~

~~(5) in an amusement park; or~~

~~(6) on the premises of a civil commitment facility.~~

~~(c) A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a holster, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting subject to Chapter 551, Government Code, and the entity provided notice as required by that chapter.~~

~~(d) A license holder commits an offense if, while intoxicated, the license holder carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed or carried in a holster.~~

~~(e) A license holder who is licensed as a security officer under Chapter 1702, Occupations Code, and employed as a security officer commits an offense if, while in the course and scope of the security officer's employment, the security officer violates a provision of Subchapter H, Chapter 411, Government Code.~~

~~(f) In this section:~~

~~(1) "Amusement park" means a permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.~~

~~(1-a) "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003, Education Code.~~

~~(2) "License holder" means a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code.~~

~~(3) "Premises" means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.~~

~~(g) An offense under this section is a Class A misdemeanor, unless the offense is committed under Subsection (b)(1) or (b)(3), in which event the offense is a felony of the third degree.~~

~~(h) It is a defense to prosecution under Subsection (a), (a-1), (a-2), or (a-3) that the actor, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force under Chapter 9.~~

*Text of subsection as added by Acts 2007, 80th Leg., R.S., Ch. 1214 (H.B. 1889), Sec.*

*2*

~~(h-1) It is a defense to prosecution under Subsections (b) and (c) that the actor, at the time of the commission of the offense, was:~~

~~(1) an active judicial officer, as defined by Section 411.201, Government Code; or~~

~~(2) a bailiff designated by the active judicial officer and engaged in escorting the officer.~~

~~(h-1) It is a defense to prosecution under Subsections (b)(1), (2), (4), and (5) and (c) that at the time of the commission of the offense, the actor was:~~

~~(1) a judge or justice of a federal court;~~

~~(2) an active judicial officer, as defined by Section 411.201, Government Code; or~~

~~(3) the attorney general or a United States attorney, assistant United States attorney, assistant attorney general, district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney, or assistant county attorney.~~

~~(i) Subsections (b)(4), (b)(5), and (c) do not apply if the actor was not given effective notice under Section 30.06 or 30.07.~~

~~(j) Subsections (a), (a-1), (a-2), (a-3), and (b)(1) do not apply to a historical reenactment performed in compliance with the rules of the Texas Alcoholic Beverage Commission.~~

~~(k) It is a defense to prosecution under Subsection (b)(1) that the actor was not given effective notice under Section 411.204, Government Code.~~

~~(l) Subsection (b)(2) does not apply on the premises where a collegiate sporting event is taking place if the actor was not given effective notice under Section 30.06.~~

~~(m) It is a defense to prosecution under Subsections (b) and (c) that the actor is volunteer emergency services personnel engaged in providing emergency services.~~

Repealed by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 17.004, eff. September 1, 2023.

#### **Sec. 46.04. UNLAWFUL POSSESSION OF FIREARM.**

(a) A person who has been convicted of a felony commits an offense if he possesses a firearm:

(1) after conviction and before the fifth anniversary of the person's release from confinement following conviction of the felony or the person's release from supervision under community supervision, parole, or mandatory supervision, whichever date is later; or

(2) after the period described by Subdivision (1), at any location other than the premises at which the person lives.

(a-1) A person who is a member of a criminal street gang, as defined by Section 71.01, commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft.

(b) A person who has been convicted of an offense under Section 22.01, punishable as a Class A misdemeanor and involving a member of the person's family or household, commits an offense if the person possesses a firearm before the fifth anniversary of the later of:

(1) the date of the person's release from confinement following conviction of the misdemeanor; or

(2) the date of the person's release from community supervision following conviction of the misdemeanor.

(c) A person, other than a peace officer, as defined by Section 1.07, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, who is subject to an order issued under Section 6.504 or Chapter

85, Family Code, under Article 17.292 or Subchapter A, Chapter 7B, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, commits an offense if the person possesses a firearm after receiving notice of the order and before expiration of the order.

(d) In this section, "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(e) An offense under Subsection (a) is a felony of the third degree. An offense under Subsection (a-1), (b), or (c) is a Class A misdemeanor.

(f) For the purposes of this section, an offense under the laws of this state, another state, or the United States is, except as provided by Subsection (g), a felony if, at the time it is committed, the offense:

(1) is designated by a law of this state as a felony;

(2) contains all the elements of an offense designated by a law of this state as a felony; or

(3) is punishable by confinement for one year or more in a penitentiary.

(g) An offense is not considered a felony for purposes of Subsection (f) if, at the time the person possesses a firearm, the offense:

(1) is not designated by a law of this state as a felony; and

(2) does not contain all the elements of any offense designated by a law of this state as a felony.

#### **Sec. 46.041. UNLAWFUL POSSESSION OF METAL OR BODY ARMOR BY FELON.**

(a) In this section, "metal or body armor" means any body covering manifestly designed, made, or adapted for the purpose of protecting a person against gunfire.

(b) A person who has been convicted of a felony commits an offense if after the conviction the person possesses metal or body armor.

(c) An offense under this section is a felony of the third degree.

#### **Sec. 46.05. PROHIBITED WEAPONS.**

(a) A person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

(1) any of the following items, unless the item is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration

requirement or unless the item is classified as a curio or relic by the United States Department of Justice:

- (A) an explosive weapon;
- (B) a machine gun; or
- (C) a short-barrel firearm;

- (2) armor-piercing ammunition;
- (3) a chemical dispensing device;
- (4) a zip gun;
- (5) a tire deflation device;

(6) a firearm silencer, unless the firearm silencer is classified as a curio or relic by the United States Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law; or

- (7) an improvised explosive device.

(b) It is a defense to prosecution under this section that the actor's conduct was incidental to the performance of official duty by the armed forces or national guard, a governmental law enforcement agency, or a correctional facility.

(c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 69 , Sec. 2, eff. September 1, 2015.

(d) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) was incidental to dealing with a short-barrel firearm or tire deflation device solely as an antique or curio;

(2) was incidental to dealing with armor-piercing ammunition solely for the purpose of making the ammunition available to an organization, agency, or institution listed in Subsection (b); or

(3) was incidental to dealing with a tire deflation device solely for the purpose of making the device available to an organization, agency, or institution listed in Subsection (b).

(e) Except as otherwise provided by this subsection, an offense under this section is a felony of the third degree. An offense under Subsection (a)(5) is a state jail felony.

(f) It is a defense to prosecution under this section for the possession of a chemical dispensing device that the actor is a security officer and has received training on the use of the chemical dispensing device by a training program that is:

- (1) provided by the Texas Commission on Law Enforcement; or

(2) approved for the purposes described by this subsection by the Texas Private Security Board of the Department of Public Safety.

(g) In Subsection (f), "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.



**Sec. 46.06. UNLAWFUL TRANSFER OF CERTAIN WEAPONS.**

(a) A person commits an offense if the person:

(1) sells, rents, leases, loans, or gives a handgun to any person knowing that the person to whom the handgun is to be delivered intends to use it unlawfully or in the commission of an unlawful act;

(2) intentionally or knowingly sells, rents, leases, or gives or offers to sell, rent, lease, or give to any child younger than 18 years of age any firearm, club, or location-restricted knife;

(3) intentionally, knowingly, or recklessly sells a firearm or ammunition for a firearm to any person who is intoxicated;

(4) knowingly sells a firearm or ammunition for a firearm to any person who has been convicted of a felony before the fifth anniversary of the later of the following dates:

(A) the person's release from confinement following conviction of the felony; or

(B) the person's release from supervision under community supervision, parole, or mandatory supervision following conviction of the felony;

(5) sells, rents, leases, loans, or gives a handgun to any person knowing that an active protective order is directed to the person to whom the handgun is to be delivered; or

(6) knowingly purchases, rents, leases, or receives as a loan or gift from another a handgun while an active protective order is directed to the actor.

(7) while prohibited from possessing a firearm under state or federal law, knowingly makes a material false statement on a form that is:

(A) required by state or federal law for the purchase, sale, or other transfer of a firearm; and

(B) submitted to a firearms dealer licensed under 18 U.S.C. Section 923.

(b) In this section:

(1) "Intoxicated" means substantial impairment of mental or physical capacity resulting from introduction of any substance into the body.

(2) "Active protective order" means a protective order issued under Title 4, Family Code, that is in effect. The term does not include a temporary protective order issued before the court holds a hearing on the matter.

(c) It is an affirmative defense to prosecution under Subsection (a)(2) that the transfer was to a minor whose parent or the person having legal custody of the minor

had given written permission for the sale or, if the transfer was other than a sale, the parent or person having legal custody had given effective consent.

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

(1) an offense under Subsection (a)(2) is a state jail felony if the weapon that is the subject of the offense is a handgun; and

(2) an offense under Subsection (a)(7) is a state jail felony.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 17.005, eff. September 1, 2023.

**Sec. 46.07. INTERSTATE PURCHASE.**

A resident of this state may, if not otherwise precluded by law, purchase firearms, ammunition, reloading components, or firearm accessories in another state. This authorization is enacted in conformance with 18 U.S.C. Section 922(b)(3)(A).

**Sec. 46.10. DEADLY WEAPON IN PENAL INSTITUTION.**

(a) A person commits an offense if, while confined in a penal institution, he intentionally, knowingly, or recklessly:

(1) carries on or about his person a deadly weapon; or

(2) possesses or conceals a deadly weapon in the penal institution.

(b) It is an affirmative defense to prosecution under this section that at the time of the offense the actor was engaged in conduct authorized by an employee of the penal institution.

(c) A person who is subject to prosecution under both this section and another section under this chapter may be prosecuted under either section.

(d) An offense under this section is a felony of the third degree.

**Sec. 46.11. PENALTY IF OFFENSE COMMITTED WITHIN WEAPON-FREE SCHOOL ZONE.**

(a) Except as provided by Subsection (b), the punishment prescribed for an offense under this chapter is increased to the punishment prescribed for the next highest category of offense if it is shown beyond a reasonable doubt on the trial of the offense that the actor committed the offense in a place that the actor knew was:

(1) within 300 feet of the premises of a school; or

(2) on premises where:

- (A) an official school function is taking place; or
- (B) an event sponsored or sanctioned by the University Interscholastic League is taking place.

Interscholastic League is taking place.

(b) This section does not apply to an offense under Section [46.03\(a\)\(1\)](#).

(c) In this section:

(1) "Premises" has the meaning assigned by Section [481.134](#), Health and Safety Code.

(2) "School" means a private or public elementary or secondary school.

### **Sec. 46.13. MAKING A FIREARM ACCESSIBLE TO A CHILD.**

(a) In this section:

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

(2) "Readily dischargeable firearm" means a firearm that is loaded with ammunition, whether or not a round is in the chamber.

(3) "Secure" means to take steps that a reasonable person would take to prevent the access to a readily dischargeable firearm by a child, including but not limited to placing a firearm in a locked container or temporarily rendering the firearm inoperable by a trigger lock or other means.

(b) A person commits an offense if a child gains access to a readily dischargeable firearm and the person with criminal negligence:

(1) failed to secure the firearm; or

(2) left the firearm in a place to which the person knew or should have known the child would gain access.

(c) It is an affirmative defense to prosecution under this section that the child's access to the firearm:

(1) was supervised by a person older than 18 years of age and was for hunting, sporting, or other lawful purposes;

(2) consisted of lawful defense by the child of people or property;

(3) was gained by entering property in violation of this code; or

(4) occurred during a time when the actor was engaged in an agricultural enterprise.

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

(e) An offense under this section is a Class A misdemeanor if the child discharges the firearm and causes death or serious bodily injury to himself or another person.

(f) A peace officer or other person may not arrest the actor before the seventh day after the date on which the offense is committed if:

(1) the actor is a member of the family, as defined by Section 71.003, Family Code, of the child who discharged the firearm; and

(2) the child in discharging the firearm caused the death of or serious injury to the child.

(g) A dealer of firearms shall post in a conspicuous position on the premises where the dealer conducts business a sign that contains the following warning in block letters not less than one inch in height:

"IT IS UNLAWFUL TO STORE, TRANSPORT, OR ABANDON AN UNSECURED FIREARM IN A PLACE WHERE CHILDREN ARE LIKELY TO BE AND CAN OBTAIN ACCESS TO THE FIREARM."

**Sec. 46.15. NONAPPLICABILITY.**

Text of subsection effective until January 01, 2025

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2.122, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active or retired judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is an honorably retired peace officer or other qualified retired law enforcement officer;

(6) the attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer;

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code; or

(10) a person who is volunteer emergency services personnel if the person is:

(A) carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code; and

(B) engaged in providing emergency services; or

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 501 (H.B. 2291), Sec. 1

(11) a person who:

(A) retired after serving as a judge or justice described by Section 411.201(a)(1), Government Code; and

(B) is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. 599), Sec. 4

(11) a district or county clerk who is carrying a handgun the clerk is licensed to carry under Subchapter H, Chapter 411, Government Code.

Text of subsection effective on January 01, 2025

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers or special investigators under Article 2A.002, Code of Criminal Procedure, and neither section prohibits a peace officer or special investigator from carrying a weapon in this state, including in an establishment in this state serving the public, regardless of whether the peace officer or special investigator is engaged in the actual discharge of the officer's or investigator's duties while carrying the weapon;

(2) parole officers, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code;

(4) an active or retired judicial officer as defined by Section 411.201, Government Code, who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(5) an honorably retired peace officer or other qualified retired law enforcement officer, as defined by 18 U.S.C. Section 926C, who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo

identification that is issued by a federal, state, or local law enforcement agency, as applicable, and that verifies that the officer is an honorably retired peace officer or other qualified retired law enforcement officer;

(6) the attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(7) an assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code;

(8) a bailiff designated by an active judicial officer as defined by Section 411.201, Government Code, who is:

(A) licensed to carry a handgun under Subchapter H, Chapter 411, Government Code; and

(B) engaged in escorting the judicial officer;

(9) a juvenile probation officer who is authorized to carry a firearm under Section 142.006, Human Resources Code;

(10) a person who is volunteer emergency services personnel if the person is:

(A) carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code; and

(B) engaged in providing emergency services; or

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 501 (H.B. 2291), Sec. 1

(11) a person who:

(A) retired after serving as a judge or justice described by Section 411.201(a)(1), Government Code; and

(B) is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code

Text of subdivision as added by Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. 599), Sec. 4

(11) a district or county clerk who is carrying a handgun the clerk is licensed to carry under Subchapter H, Chapter 411, Government Code.

(b) Sections [46.02](#), [46.03\(a\)\(14\)](#), and [46.04\(a-1\)](#) do not apply to a person who:

(1) is in the actual discharge of official duties as a member of the armed forces or state military forces as defined by Section 437.001, Government Code, or as a guard employed by a penal institution;

(2) is traveling;

(3) is engaging in lawful hunting, fishing, or other sporting activity on the immediate premises where the activity is conducted, or is en route between the premises and the actor's residence, motor vehicle, or watercraft, if the weapon is a type commonly used in the activity;

(4) holds a security officer commission issued by the Texas Private Security Board, if the person is engaged in the performance of the person's duties as an officer commissioned under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment and is wearing the officer's uniform and carrying the officer's weapon in plain view;

(5) acts as a personal protection officer and carries the person's security officer commission and personal protection officer authorization, if the person:

(A) is engaged in the performance of the person's duties as a personal protection officer under Chapter 1702, Occupations Code, or is traveling to or from the person's place of assignment; and

(B) is either:

(i) wearing the uniform of a security officer, including any uniform or apparel described by Section 1702.323(d), Occupations Code, and carrying the officer's weapon in plain view; or

(ii) not wearing the uniform of a security officer and carrying the officer's weapon in a concealed manner;

(6) is 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 holster;

(7) holds an alcoholic beverage permit or license or is an employee of a holder of an alcoholic beverage permit or license if the person is supervising the operation of the permitted or licensed premises; or

(8) is a student in a law enforcement class engaging in an activity required as part of the class, if the weapon is a type commonly used in the activity and the person is:



(A) on the immediate premises where the activity is conducted; or  
(B) en route between those premises and the person's residence  
and is carrying the weapon unloaded.

(c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 216 (H.B. 446), Sec. 4, eff. September 1, 2019.

(d) The provisions of Section 46.02 prohibiting the carrying of a firearm do not apply to a public security officer employed by the adjutant general under Section 437.053, Government Code, in performance of official duties or while traveling to or from a place of duty.

(e) Section 46.02(a-4) does not apply to an individual carrying a location-restricted knife used in a historical demonstration or in a ceremony in which the knife is significant to the performance of the ceremony.

(f) Section 46.03(a)(6) does not apply to a person who possesses a firearm or club while in the actual discharge of official duties as:

(1) a member of the armed forces or state military forces, as defined by Section 437.001, Government Code; or

(2) an employee of a penal institution.

(g) The provisions of Section 46.03 prohibiting the possession or carrying of a club do not apply to an animal control officer who holds a certificate issued under Section 829.006, Health and Safety Code, and who possesses or carries an instrument used specifically for deterring the bite of an animal while the officer is in the performance of official duties under the Health and Safety Code or is traveling to or from a place of duty.

(h) The provisions of Sections 46.02 and 46.03 prohibiting the possession or carrying of a club do not apply to a code enforcement officer who:

(1) holds a certificate of registration issued under Chapter 1952, Occupations Code; and

(2) possesses or carries an instrument used specifically for deterring an animal bite while the officer is:

(A) performing official duties; or

(B) traveling to or from a place of duty.

(i) Repealed by Acts 2007, 80th Leg., R.S., Ch. 693, Sec. 3(2), eff. September 1, 2007.

(j) The provisions of Section 46.02 and 46.03 (a) (7), (a-2), (a-3), and (a-4) do not apply to an individual who carries a handgun as a participant in a historical

reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

(k) Section 46.02 does not apply to a person who carries a handgun if:

(1) the person carries the handgun while:

(A) evacuating from an area following the declaration of a state of disaster under Section 418.014, Government Code, or a local state of disaster under Section 418.108, Government Code, with respect to that area; or

(B) reentering that area following the person's evacuation;

(2) not more than 168 hours have elapsed since the state of disaster or local state of disaster was declared, or more than 168 hours have elapsed since the time the declaration was made and the governor has extended the period during which a person may carry a handgun under this subsection; and

(3) the person is not prohibited by state or federal law from possessing a firearm.

(l) Sections 46.02 and 46.03(a)(1), (a)(2), (a)(3), and (a)(4) do not apply to a person who carries a handgun if:

(1) the person carries the handgun on the premises, as defined by the statute providing the applicable offense, of a location operating as an emergency shelter during a state of disaster declared under Section 418.014, Government Code, or a local state of disaster declared under Section 418.108, Government Code;

(2) the owner, controller, or operator of the premises or a person acting with the apparent authority of the owner, controller, or operator, authorized the carrying of the handgun;

(3) the person carrying the handgun complies with any rules and regulations of the owner, controller, or operator of the premises that govern the carrying of a handgun on the premises; and

(4) the person is not prohibited by state or federal law from possessing a firearm.

*Text of subsection as added by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 25*

(m) It is a defense to prosecution under Section 46.03 that the actor:

(1) carries a handgun on a premises or other property on which the carrying of a weapon is prohibited under that section;

- (2) personally received from the owner of the property, or from another person with apparent authority to act for the owner, notice that carrying a firearm or other weapon on the premises or other property, as applicable, was prohibited; and
- (3) promptly departed from the premises or other property.

*Text of subsection as added by Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 8*

(m) Sections 46.02, 46.03, and 46.035(b) and (c) do not apply to a first responder who:

- (1) was carrying a handgun in a concealed manner or in a shoulder or belt holster;

- (2) holds an unexpired certificate of completion under Section 411.184, Government Code, at the time of engaging in the applicable conduct;

- (3) was engaged in the actual discharge of the first responder's duties while carrying the handgun; and

- (4) was employed or supervised by a municipality or county to which Chapter 179, Local Government Code, applies.

(n) The defense provided by Subsection (m) does not apply if:

- (1) a sign described by Subsection (o) was posted prominently at each entrance to the premises or other property, as applicable; or

- (2) at the time of the offense, the actor knew that carrying a firearm or other weapon on the premises or other property was prohibited.

(o) A person may provide notice that firearms and other weapons are prohibited under Section 46.03 on the premises or other property, as applicable, by posting a sign at each entrance to the premises or other property that:

- (1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property";

- (2) includes the language described by Subdivision (1) in both English and Spanish;

- (3) appears in contrasting colors with block letters at least one inch in height; and

- (4) is displayed in a conspicuous manner clearly visible to the public.

(p) Sections 46.03(a)(7), (11), and (13) do not apply if the actor:

- (1) carries a handgun on the premises or other property, as applicable;

(2) holds a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code; and

(3) was not given effective notice under Section 30.06 or 30.07 of this code or Section 411.204, Government Code, as applicable.

(q) Section 46.03(a)(8) does not apply if the actor:

(1) carries a handgun on a premises where a collegiate sporting event is taking place;

(2) holds a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code; and

(3) was not given effective notice under Section 30.06 or 30.07 of this code, as applicable.

(r) Sections 46.02 and 46.03 do not apply to a first responder who:

(1) was carrying a handgun in a concealed manner or in a shoulder or belt holster;

(2) holds an unexpired certificate of completion under Section 411.1883, Government Code, at the time of engaging in the applicable conduct;

(3) was engaged in the actual discharge of the first responder's duties while carrying the handgun; and

(4) was employed or supervised by a municipality or county to which Chapter 179, Local Government Code, applies.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 501 (H.B. [2291](#)), Sec. 1, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 2.157, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 24.001(34), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 24.002(20), eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1077 (S.B. [599](#)), Sec. 4, eff. September 1, 2023.

## **CHAPTER 49. INTOXICATION AND ALCOHOLIC BEVERAGE OFFENSES**

### **Sec. 49.01. DEFINITIONS.**

In this chapter:

(1) "Alcohol concentration" means the number of grams of alcohol per:

(A) 210 liters of breath;

(B) 100 milliliters of blood; or

(C) 67 milliliters of urine.

(2) "Intoxicated" means:

(A) not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or

(B) having an alcohol concentration of 0.08 or more.

(3) "Motor vehicle" has the meaning assigned by Section [32.34\(a\)](#).

(4) "Watercraft" means a vessel, one or more water skis, an aquaplane, or another device used for transporting or carrying a person on water, other than a device propelled only by the current of water.

(5) "Amusement ride" has the meaning assigned by Section [2151.002](#), Occupations Code.

(6) "Mobile amusement ride" has the meaning assigned by Section [2151.002](#), Occupations Code.

## **ALCOHOLIC BEVERAGE CODE**

### **TITLE 3. LICENSES AND PERMITS**

#### **SUBTITLE A. PERMITS**

#### **CHAPTER 11. PROVISIONS GENERALLY APPLICABLE TO PERMITS**

#### **SUBCHAPTER C. CANCELLATION AND SUSPENSION OF PERMITS**

#### **Sec. 11.61. CANCELLATION OR SUSPENSION OF PERMIT.**

(a) As used in Subsection (b) of this section, the word "permittee" also includes each member of a partnership or association and, with respect to a corporation, each officer and the owner or owners of a majority of the corporate stock. This section shall not be construed as prohibiting anything permitted under Section [22.06](#), [24.05](#), or [102.05](#) of this code.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation of this code;

- (2) the permittee violated a provision of this code or a rule of the commission;
- (3) the permittee was finally convicted of a felony while holding an original or renewal permit;
- (4) the permittee made a false or misleading statement in connection with the permittee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;
- (5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter 183, Tax Code;
- (6) the permittee is not of good moral character or the permittee's reputation for being a peaceable and law-abiding citizen in the community where the permittee resides is bad;
- (7) the place or manner in which the permittee conducts the permittee's business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;
- (8) the permittee is not maintaining an acceptable bond;
- (9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;
- (10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public;
- (11) the permittee is in the habit of using alcoholic beverages to excess;
- (12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee;
- (13) the permittee was intoxicated on the licensed premises;
- (14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;
- (15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee was not authorized under the permit to purchase and sell;
- (16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling beer at retail, other than a mixed beverage establishment, except as authorized by Section [22.06](#), [24.05](#), or [102.05](#);

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's application, unless the permittee was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;

(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

(b) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal permit if it is found, after notice and hearing, that any of the following is true:

(1) the permittee has been finally convicted of a violation of this code;

(2) the permittee violated a provision of this code or a rule of the commission;

(3) the permittee was finally convicted of a felony while holding an original or renewal permit;

(4) the permittee made a false or misleading statement in connection with the permittee's original or renewal application, either in the formal application itself or in any other written instrument relating to the application submitted to the commission, its officers, or employees;

(5) the permittee is indebted to the state for taxes, fees, or payment of penalties imposed by this code, by a rule of the commission, or by Chapter [183](#), Tax Code;

(6) the permittee is not of good moral character or the permittee's reputation for being a peaceable and law-abiding citizen in the community where the permittee resides is bad;

(7) the place or manner in which the permittee conducts the permittee's business warrants the cancellation or suspension of the permit based on the general welfare, health, peace, morals, and safety of the people and on the public sense of decency;

(8) the permittee is not maintaining an acceptable bond;

(9) the permittee maintains a noisy, lewd, disorderly, or unsanitary establishment or has supplied impure or otherwise deleterious beverages;

(10) the permittee is insolvent or has developed an incapacity that prevents or could prevent the permittee from carrying on the management of the permittee's establishment with reasonable skill, competence, and safety to the public;

(11) the permittee is in the habit of using alcoholic beverages to excess;

(12) the permittee knowingly misrepresented to a customer or the public any liquor sold by the permittee;

(13) the permittee was intoxicated on the licensed premises;

(14) the permittee sold or delivered an alcoholic beverage to an intoxicated person;

(15) the permittee possessed on the licensed premises an alcoholic beverage that the permittee was not authorized under the permit to purchase and sell;

(16) a package store or wine only package store permittee transported or shipped liquor, or caused it to be transported or shipped, into a dry state or a dry area within this state;

(17) the permittee is residentially domiciled with a person who has a financial interest in an establishment engaged in the business of selling malt beverages at retail, other than a mixed beverage establishment, except as authorized by Section [22.06](#), [24.05](#), or [102.05](#);

(18) the permittee is residentially domiciled with a person whose permit or license was cancelled for cause within the 12-month period preceding the permittee's own application;

(19) the permittee is not a citizen of the United States or has not been a citizen of Texas for a period of one year immediately preceding the filing of the permittee's application, unless the permittee was issued an original or renewal permit on or before September 1, 1948, and has been a United States citizen at some time;



(20) the permittee permitted a person to open a container of alcoholic beverage or possess an open container of alcoholic beverage on the licensed premises unless a mixed beverage permit has been issued for the premises;

(21) the permittee failed to promptly report to the commission a breach of the peace occurring on the permittee's licensed premises;

(22) the permittee consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code; or

(23) the permittee sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited.

(b-1) Notwithstanding Section [204.01](#) and any other provision of this code, a person applying for a license or permit under Chapter [25](#) or [69](#) for the on-premises consumption of malt beverages exclusively or malt beverages and wine exclusively, other than a license or permit for an establishment holding a food and beverage certificate whose primary business being operated on the premises is food service, must file with the commission a surety bond, in an amount to be determined by the commission, conditioned on the licensee's or permittee's conformance with the alcoholic beverage law. The bond is forfeited to the commission on the suspension of the license or permit for the first time under this section or Section [61.71](#). Before the suspended license or permit may be reinstated, the licensee or permittee must furnish a second surety bond, similarly conditioned, in an amount greater than the initial surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section [61.71](#) a second time, the bond is again forfeited to the commission. Before the suspended license or permit may be reinstated, the licensee or permittee shall furnish a third surety bond, similarly conditioned, in an amount greater than the second surety bond, the amount to be determined by the commission. If the same license or permit is suspended under this section or Section [61.71](#) a third time, the bond is again forfeited to the commission and the license or permit shall be canceled by the commission. This subsection applies only to a license or permit held in connection with an establishment located in a county with a population of 1.4 million or more.

(b-2) Subsection (b-1) does not apply to a fraternal organization or veterans organization, as those terms are defined by Section [32.11](#).

(c) The commission or administrator may refuse to renew or, after notice and hearing, suspend for not more than 60 days or cancel a permit if the commission or administrator finds that the permittee:

(1) no longer holds a sales tax permit, if required, for the place of business covered by the alcoholic beverage permit; or

(2) is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under the Limited Sales, Excise and Use Tax Act (Chapter 151, Tax Code), or is shown on the records of the comptroller of public accounts as being subject to a final determination of taxes due and payable under Chapter 321, Tax Code.

(d) The commission or administrator without a hearing may for investigative purposes summarily suspend a mixed beverage permit or a wine and malt beverage retailer's permit for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the permit shall be given to the permittee personally within 24 hours of the time the violent act occurs. If the permittee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(d-1) Notwithstanding Section 11.64, the commission or administrator shall cancel an original or renewal permit if it is found, after notice and hearing, that the permittee was convicted of an offense under Section 101.76.

(e) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(2), eff. September 1, 2021.

(f) The commission may adopt a rule allowing:

(1) a gun or firearm show on the premises of a permit holder, if the premises is owned or leased by a governmental entity or a nonprofit civic, religious, charitable, fraternal, or veterans' organization;

(2) the holder of a permit for the sale of alcoholic beverages for off-premises consumption to also hold a federal firearms license; or

(3) the ceremonial display of firearms on the premises of the permit holder.

(g) The length of a suspension must be appropriate for the nature and seriousness of the violation. In determining the length of a suspension, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section 11.64(c); and

(4) the permittee's or licensee's previous violations.

(h) The length of a suspension may not be based on:

- (1) the volume of alcoholic beverages sold;
- (2) the receipts of the business;
- (3) the taxes paid; or
- (4) the financial condition of the permittee or licensee.

(i) The commission shall adopt rules allowing a historical reenactment on the premises of a permit holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

(i) A hearing under Subsection (b) must be concluded not later than the 60th day after notice is provided under that subsection. Neither the permittee nor the commission may waive the provisions of this subsection. This subsection applies only to a hearing in connection with a wine and malt beverage retailer's permit, other than a permit held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

### **TITLE 3. LICENSES AND PERMITS**

#### **SUBTITLE B. LICENSES**

#### **CHAPTER 61. PROVISIONS GENERALLY APPLICABLE TO LICENSES**

#### **SUBCHAPTER C. CANCELLATION AND SUSPENSION OF LICENSES**

#### **Sec. 61.71. GROUNDS FOR CANCELLATION OR SUSPENSION: RETAIL DEALER.**

(a) The commission or administrator may suspend for not more than 60 days or cancel an original or renewal retail dealer's on- or off-premise license if it is found, after notice and hearing, that the licensee:

- (1) violated a provision of this code or a rule of the commission during the existence of the license sought to be cancelled or suspended or during the immediately preceding license period;
- (2) was finally convicted for violating a penal provision of this code;
- (3) was finally convicted of a felony while holding an original or renewal license;
- (4) made a false statement or a misrepresentation in the licensee's original application or a renewal application;

- (5) with criminal negligence sold, served, or delivered an alcoholic beverage to a minor;
- (6) sold, served, or delivered an alcoholic beverage to an intoxicated person;
- (7) sold, served, or delivered an alcoholic beverage at a time when its sale is prohibited;
- (8) entered or offered to enter an agreement, condition, or system which would constitute the sale or possession of alcoholic beverages on consignment;
- (9) possessed on the licensed premises, or on adjacent premises directly or indirectly under the licensee's control, an alcoholic beverage not authorized to be sold on the licensed premises, or permitted an agent, servant, or employee to do so, except as permitted by Section [22.06](#), [24.05](#), or [102.05](#);
- (10) permitted a person on the licensed premises to engage in conduct which is lewd, immoral, or offensive to public decency;
- (11) employed a person under 18 years of age to sell, handle, or dispense malt beverages, or to assist in doing so, in an establishment where malt beverages are sold for on-premises consumption;
- (12) conspired with a person to violate Section 101.41-101.43, [101.68](#), 102.11-102.15, [104.04](#), [108.01](#), or 108.04-108.06, or a rule promulgated under Section [5.40](#), or accepted a benefit from an act prohibited by any of these sections or rules;
- (13) refused to permit or interfered with an inspection of the licensed premises by an authorized representative of the commission or a peace officer;
- (14) permitted the use or display of the licensee's license in the conduct of a business for the benefit of a person not authorized by law to have an interest in the license;
- (15) maintained blinds or barriers at the licensee's place of business in violation of this code;
- (16) conducted the licensee's business in a place or manner which warrants the cancellation or suspension of the license based on the general welfare, health, peace, morals, safety, and sense of decency of the people;
- (17) consumed an alcoholic beverage or permitted one to be consumed on the licensed premises at a time when the consumption of alcoholic beverages is prohibited by this code;
- (18) purchased malt beverages for the purpose of resale from a person other than the holder of a brewer's or distributor's license;

(19) acquired an alcoholic beverage for the purpose of resale from another retail dealer of alcoholic beverages;

(20) owned an interest of any kind in the business or premises of the holder of a distributor's license;

(21) purchased, sold, offered for sale, distributed, or delivered an alcoholic beverage, or consumed an alcoholic beverage or permitted one to be consumed on the licensed premises while the licensee's license was under suspension;

(22) purchased, possessed, stored, sold, or offered for sale malt beverages in or from an original package bearing a brand or trade name of a manufacturer other than the brand or trade name shown on the container;

(23) has developed an incapacity that prevents or could prevent the license holder from managing the license holder's establishment with reasonable skill, competence, and safety to the public;

(24) imported malt beverages into this state except as authorized by Section [107.07](#);

(25) occupied premises in which the holder of a brewer's or distributor's license had an interest of any kind;

(26) knowingly permitted a person who had an interest in a permit or license which was cancelled for cause to sell, handle, or assist in selling or handling alcoholic beverages on the licensed premises within one year after the cancellation;

(27) was financially interested in a place of business engaged in the selling of distilled spirits or permitted a person having an interest in that type of business to have a financial interest in the business authorized by the licensee's license, except as permitted by Section [22.06](#), [24.05](#), or [102.05](#);

(28) is residentially domiciled with or related to a person engaged in selling distilled spirits, except as permitted by Section [22.06](#), [24.05](#), or [102.05](#), so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code;

(29) is residentially domiciled with or related to a person whose license has been cancelled within the preceding 12 months so that there is a community of interests which the commission or administrator finds contrary to the purposes of this code; or

(30) failed to promptly report to the commission a breach of the peace occurring on the licensee's licensed premises.

(b) Subdivisions (9), (27), (28), and (29) of Subsection (a) do not apply to a licensee whose business is located in a hotel in which an establishment authorized to

sell distilled spirits in unbroken packages is also located if the licensed premises of the businesses do not coincide or overlap.

(c) The grounds listed in Subsection (a) of this section, except the ground contained in Subdivision (2), also apply to each member of a partnership or association and, as to a corporation, to the president, manager, and owner of the majority of the corporate stock. This subsection shall not be construed as prohibiting anything permitted by Section [22.06](#), [24.05](#), or [102.05](#) of this code.

(d) The grounds set forth in Subdivisions (1), (4)-(13), (15), (17), (18), (20), (22), and (25) of Subsection (a) also apply to an agent, servant, or employee of the licensee.

(e) The commission or administrator without a hearing may for investigative purposes summarily suspend a retail dealer's on-premise license for not more than seven days if the commission or administrator finds that a shooting, stabbing, or murder has occurred on the licensed premises which is likely to result in a subsequent act of violence. Notice of the order suspending the license shall be given to the licensee personally within 24 hours of the time the violent act occurs. If the licensee cannot be located, notice shall be provided by posting a copy of the order on the front door of the licensed premises.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 26(4), eff. September 1, 2021.

(g) The commission may adopt a rule allowing:

(1) a gun or firearm show on the premises of a license holder, if the premises is owned or leased by a governmental entity or a nonprofit civic, religious, charitable, fraternal, or veterans' organization;

(2) the holder of a license for the sale of alcoholic beverages for off-premises consumption to also hold a federal firearms license; or

(3) the ceremonial display of firearms on the premises of the license holder.

(h) The length of a suspension must be appropriate for the nature and seriousness of the violation. In determining the length of a suspension, the commission or administrator shall consider:

(1) the type of license or permit held;

(2) the type of violation;

(3) any aggravating or ameliorating circumstances concerning the violation, including those enumerated in Section [11.64\(c\)](#); and

(4) the permittee's or licensee's previous violations.

(i) The length of a suspension may not be based on:

- (1) the volume of alcoholic beverages sold;
- (2) the receipts of the business;
- (3) the taxes paid; or
- (4) the financial condition of the permittee or licensee.

(j) The commission shall adopt rules allowing a historical reenactment on the premises of a license holder. Rules adopted under this subsection must prohibit the use of live ammunition in a historical reenactment.

(k) A hearing under Subsection (a) must be concluded not later than the 60th day after the date notice is provided under that subsection. The provisions of this subsection may not be waived by the license holder or the commission. This subsection applies only to a hearing in connection with a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

(l) Section 11.61(b-1) applies to a retail dealer's on-premise license, other than a license held with a food and beverage certificate, for premises located in a county with a population of 1.4 million or more.

## **CIVIL PRACTICE AND REMEDIES CODE**

### **TITLE 4. LIABILITY IN TORT**

#### **CHAPTER 83. USE OF FORCE OR DEADLY FORCE**

##### **Sec. 83.001. CIVIL IMMUNITY.**

A defendant who uses force or deadly force that is justified under Chapter 9, Penal Code, is immune from civil liability for personal injury or death that results from the defendant's use of force or deadly force, as applicable.

##### **Sec. 112.001. CERTAIN ACTIONS OF FIRST RESPONDERS AND VOLUNTEER EMERGENCY SERVICES PERSONNEL.**

(a) In this section:

(1) "First responder" and "volunteer emergency services personnel" have the meanings assigned by Section 46.01, Penal Code.

(2) "Governmental unit" has the meaning assigned by Section 101.001.

(b) A governmental unit is not liable in a civil action arising from the discharge of a handgun by an individual who is a first responder or volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(c) The discharge of a handgun by an individual who is a first responder or volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as a first responder or volunteer emergency services personnel, as applicable.

(d) This section may not be construed to waive the immunity from suit or liability of a governmental unit under Chapter 101 or any other law.



# CODE OF CRIMINAL PROCEDURE

## TITLE 1. CODE OF CRIMINAL PROCEDURE

### CHAPTER 2. GENERAL DUTIES OF OFFICERS

Text of article effective until January 01, 2025

#### **Art. 2.127. SCHOOL MARSHALS.**

(a) Except as provided by Subsection (b), a school marshal may:

(1) make arrests and exercise all authority given peace officers under this code, subject to written regulations adopted by:

(A) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section [37.0811](#), Education Code;

(B) the governing body of a private school under Section [37.0813](#), Education Code; or

(C) the governing board of a public junior college under Section [51.220](#), Education Code; and

(2) only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.

(a-1) In this section, "private school" means a school that:

(1) offers a course of instruction for students in one or more grades from prekindergarten through grade 12;

(2) is not operated by a governmental entity; and

(3) is not a school whose students meet the definition provided by Section [29.916](#)(a)(1), Education Code.

(b) A school marshal may not issue a traffic citation for a violation of Chapter [521](#), Transportation Code, or Subtitle C, Title 7, Transportation Code.

(c) A school marshal is not entitled to state benefits normally provided by the state to a peace officer.

(d) A person may not serve as a school marshal unless the person is:

(1) licensed under Section [1701.260](#), Occupations Code; and

(2) appointed by:

(A) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section [37.0811](#), Education Code;

(B) the governing body of a private school under Section [37.0813](#), Education Code; or

(C) the governing board of a public junior college under Section [51.220](#), Education Code.

Repealed by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 3.001(1), eff. January 1, 2025.

**Art. 14.03. AUTHORITY OF PEACE OFFICERS.**

(a) Any peace officer may arrest, without warrant:

(1) persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony, violation of Title 9, Chapter 42, Penal Code, breach of the peace, or offense under Section 49.02, Penal Code, or threaten, or are about to commit some offense against the laws;

(2) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is danger of further bodily injury to that person;

(3) persons who the peace officer has probable cause to believe have committed an offense defined by Section 25.07, Penal Code, if the offense is not committed in the presence of the peace officer;

(4) persons who the peace officer has probable cause to believe have committed an offense involving family violence;

(5) persons who the peace officer has probable cause to believe have prevented or interfered with an individual's ability to place a telephone call in an emergency, as defined by Section 42.062(d), Penal Code, if the offense is not committed in the presence of the peace officer; or

(6) a person who makes a statement to the peace officer that would be admissible against the person under Article 38.21 and establishes probable cause to believe that the person has committed a felony.

(b) A peace officer shall arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under Section 25.07, Penal Code, if the offense is committed in the presence of the peace officer.

(c) If reasonably necessary to verify an allegation of a violation of a protective order or of the commission of an offense involving family violence, a peace officer shall remain at the scene of the investigation to verify the allegation and to prevent the further commission of the violation or of family violence.

(d) A peace officer who is outside his jurisdiction may arrest, without warrant, a person who commits an offense within the officer's presence or view, if the offense is a felony, a violation of Chapter 42 or 49, Penal Code, or a breach of the peace. A peace officer making an arrest under this subsection shall, as soon as practicable after making the arrest, notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of the person committing the offense and take the person before a magistrate in compliance with Article 14.06 of this code.

(e) The justification for conduct provided under Section 9.21, Penal Code, applies to a peace officer when the peace officer is performing a duty required by this article.

(f) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

Text of subsection effective until January 01, 2025

(g)(1) A peace officer listed in Subdivision (1), (2), or (5), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, other than a violation of Subtitle C, Title 7, Transportation Code.

(2) A peace officer listed in Subdivision (3), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer described in this subdivision who is outside of that officer's jurisdiction may arrest a person for a violation of Subtitle C, Title 7, Transportation Code, only if the offense is committed in the county or counties in which the municipality employing the peace officer is located.

(3) A peace officer making an arrest under this subsection shall as soon as practicable after making the arrest notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of:

(A) the person committing the offense and take the person before a magistrate in compliance with Article 14.06; and

(B) any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

Text of subsection effective on January 01, 2025

(g)(1) A peace officer described by Article 2A.001(1), (2), or (5), who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, other than a violation of Subtitle C, Title 7, Transportation Code.

(2) A peace officer described by Article 2A.001(3), who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer described in this subdivision who is outside of that officer's jurisdiction may arrest a person for a violation of Subtitle C, Title 7, Transportation Code, only if the offense is committed in the county or counties in which the municipality employing the peace officer is located.

(3) A peace officer making an arrest under this subsection shall as soon as practicable after making the arrest notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of:

(A) the person committing the offense and take the person before a magistrate in compliance with Article 14.06; and

(B) any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

(h)(1) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person at any time the officer reasonably believes it is necessary for the protection of the person, officer, or another individual. The peace officer shall return the handgun to the person before discharging the person from the scene if the officer determines that the person is not a threat to the officer, person, or another individual and if the person has not committed a violation that results in the arrest of the person.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person when the person enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker or other secure area where the peace officer can secure the person's handgun. The peace officer shall secure the handgun in the locker or other secure area and shall return the handgun to the person immediately after the person leaves the nonpublic, secure portion of the law enforcement facility.

(3) For purposes of this subsection, "law enforcement facility" and "nonpublic, secure portion of a law enforcement facility" have the meanings assigned by Section [411.207](#), Government Code.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 2.013, eff. January 1, 2025.

**Art. 17.292. MAGISTRATE'S ORDER FOR EMERGENCY PROTECTION.**

(a) At a defendant's appearance before a magistrate after arrest for an offense involving family violence or an offense under Section [20A.02](#), [20A.03](#), [22.011](#), [22.012](#), [22.021](#), or [42.072](#), Penal Code, the magistrate may issue an order for emergency protection on the magistrate's own motion or on the request of:

- (1) the victim of the offense;
- (2) the guardian of the victim;
- (3) a peace officer; or
- (4) the attorney representing the state.

(b) At a defendant's appearance before a magistrate after arrest for an offense involving family violence, the magistrate shall issue an order for emergency protection if the arrest is for an offense that also involves:

- (1) serious bodily injury to the victim; or
- (2) the use or exhibition of a deadly weapon during the commission of an

assault.

(c) The magistrate in the order for emergency protection may prohibit the arrested party from:

- (1) committing:
  - (A) family violence or an assault on the person protected under the order; or
  - (B) an act in furtherance of an offense under Section [20A.02](#) or [42.072](#), Penal Code;

- (2) communicating:
  - (A) directly with a member of the family or household or with the person protected under the order in a threatening or harassing manner;
  - (B) a threat through any person to a member of the family or

household or to the person protected under the order; or

(C) if the magistrate finds good cause, in any manner with a person protected under the order or a member of the family or household of a person protected under the order, except through the party's attorney or a person appointed by the court;

(3) going to or near:

(A) the residence, place of employment, or business of a member of the family or household or of the person protected under the order; or

(B) the residence, child care facility, or school where a child protected under the order resides or attends; or

(4) possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision, or

(5) tracking or monitoring personal property or a motor vehicle in the possession of the person protected under the order or of a member of the family or household of the person protected under the order, without the protected person's effective consent, including by:

(A) using a tracking application on a personal electronic device in the possession of the person or the family or household member or using a tracking device; or

(B) physically following the person or the family or household member or causing another to physically follow the person or member.

(c-1) In addition to the conditions described by Subsection (c), the magistrate in the order for emergency protection may impose a condition described by Article 17.49(b) in the manner provided by that article, including ordering a defendant's participation in a global positioning monitoring system or allowing participation in the system by an alleged victim or other person protected under the order.

(d) The victim of the offense need not be present when the order for emergency protection is issued.

(d-1) The magistrate shall use the standardized order for emergency protection form created by the Office of Court Administration of the Texas Judicial System under Section 72.039, Government Code, to issue an order for emergency protection under this article.

(d-2) A magistrate's failure to use the standardized order for emergency protection form as required under Subsection (d-1) does not affect the validity or enforceability of the order for emergency protection issued.

(e) In the order for emergency protection the magistrate shall specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted.

(f) To the extent that a condition imposed by an order for emergency protection issued under this article conflicts with an existing court order granting possession of or access to a child, the condition imposed under this article prevails for the duration of the order for emergency protection.

(f-1) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 85, Subtitle B, Title 4, Family Code, or under Title 1 or Title 5, Family Code, the condition imposed by the order issued under the Family Code prevails.

(f-2) To the extent that a condition imposed by an order issued under this article conflicts with a condition imposed by an order subsequently issued under Chapter 83, Subtitle B, Title 4, Family Code, the condition imposed by the order issued under this article prevails unless the court issuing the order under Chapter 83, Family Code:

(1) is informed of the existence of the order issued under this article;

and

(2) makes a finding in the order issued under Chapter 83, Family Code, that the court is superseding the order issued under this article.

(g) An order for emergency protection issued under this article must contain the following statements printed in bold-face type or in capital letters:

**"A VIOLATION OF THIS ORDER BY COMMISSION OF AN ACT PROHIBITED BY THE ORDER MAY BE PUNISHABLE BY A FINE OF AS MUCH AS \$4,000 OR BY CONFINEMENT IN JAIL FOR AS LONG AS ONE YEAR OR BY BOTH. AN ACT THAT RESULTS IN A SEPARATE OFFENSE MAY BE PROSECUTED AS A SEPARATE MISDEMEANOR OR FELONY OFFENSE, AS APPLICABLE, IN ADDITION TO A VIOLATION OF THIS ORDER. IF THE ACT IS PROSECUTED AS A SEPARATE FELONY OFFENSE, IT IS PUNISHABLE BY CONFINEMENT IN PRISON FOR AT LEAST TWO YEARS. THE POSSESSION OF A FIREARM BY A PERSON, OTHER THAN A PEACE OFFICER, AS DEFINED BY SECTION 1.07, PENAL CODE, ACTIVELY ENGAGED IN EMPLOYMENT AS A SWORN, FULL-TIME PAID EMPLOYEE OF A STATE AGENCY OR POLITICAL SUBDIVISION, WHO IS SUBJECT TO THIS ORDER MAY BE PROSECUTED AS A SEPARATE OFFENSE PUNISHABLE BY CONFINEMENT OR IMPRISONMENT.**

"NO PERSON, INCLUDING A PERSON WHO IS PROTECTED BY THIS ORDER, MAY GIVE PERMISSION TO ANYONE TO IGNORE OR VIOLATE ANY PROVISION OF THIS ORDER. DURING THE TIME IN WHICH THIS ORDER IS VALID, EVERY PROVISION OF THIS ORDER IS IN FULL FORCE AND EFFECT UNLESS A COURT CHANGES THE ORDER."

(h) As soon as possible but not later than the next business day after the date the magistrate issues an order for emergency protection under this article, the magistrate shall send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the county where the person resides, if the person does not reside in a municipality. If the victim of the offense is not present when the order is issued, the magistrate issuing the order shall order an appropriate peace officer to make a good faith effort to notify, within 24 hours, the victim that the order has been issued by calling the victim's residence and place of employment. The clerk of the court shall send a copy of the order to the victim at the victim's last known address as soon as possible but not later than the next business day after the date the order is issued.

(h-1) A magistrate or clerk of the court may delay sending a copy of the order under Subsection (h) only if the magistrate or clerk lacks information necessary to ensure service and enforcement.

(i) If an order for emergency protection issued under this article prohibits a person from going to or near a child care facility or school, the magistrate shall send a copy of the order to the child care facility or school.

(i-1) The copy of the order and any related information may be sent under Subsection (h) or (i) electronically or in another manner that can be accessed by the recipient.

(j) An order for emergency protection issued under this article is effective on issuance, and the defendant shall be served a copy of the order by the magistrate or the magistrate's designee in person or electronically. The magistrate shall make a separate record of the service in written or electronic format. An order for emergency protection issued under Subsection (a) or (b)(1) of this article remains in effect up to the 61st day but not less than 31 days after the date of issuance. An order for emergency protection issued under Subsection (b)(2) of this article remains in effect up to the 91st day but not less than 61 days after the date of issuance. After notice to each affected party and a hearing, the issuing court may modify all or part of an order issued under this article if the court finds that:



- (1) the order as originally issued is unworkable;
- (2) the modification will not place the victim of the offense at greater risk than did the original order; and
- (3) the modification will not in any way endanger a person protected under the order.

(k) To ensure that an officer responding to a call is aware of the existence and terms of an order for emergency protection issued under this article, not later than the third business day after the date of receipt of the copy of the order by the applicable law enforcement agency with jurisdiction over the municipality or county in which the victim resides, the law enforcement agency shall enter the information required under Section [411.042\(b\)\(6\)](#), Government Code, into the statewide law enforcement information system maintained by the Department of Public Safety.

(k-1) A law enforcement agency may delay entering the information required under Subsection (k) only if the agency lacks information necessary to ensure service and enforcement.

(l) In the order for emergency protection, the magistrate shall suspend a license to carry a handgun issued under Subchapter H, Chapter [411](#), Government Code, that is held by the defendant.

(m) In this article:

- (1) "Family," "family violence," and "household" have the meanings assigned by Chapter [71](#), Family Code.
- (2) "Firearm" has the meaning assigned by Chapter [46](#), Penal Code.
- (3) "Business day" means a day other than a Saturday, Sunday, or state or national holiday.

(n) On motion, notice, and hearing, or on agreement of the parties, an order for emergency protection issued under this article may be transferred to the court assuming jurisdiction over the criminal act giving rise to the issuance of the emergency order for protection. On transfer, the criminal court may modify all or part of an order issued under this subsection in the same manner and under the same standards as the issuing court under Subsection (j).

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 839 (H.B. [2715](#)), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1037 (S.B. [48](#)), Sec. 4, eff. June 18, 2023.

**Art. 46B.084. PROCEEDINGS ON RETURN OF DEFENDANT TO COURT.**

(a) (1) Not later than the next business day following the return of a defendant to the court, the court shall notify the attorney representing the state and the attorney for the defendant regarding the return. Within three business days of the date that notice is received under this subsection or, on a showing of good cause, a later date specified by the court, the attorney for the defendant shall meet and confer with the defendant to evaluate whether there is any suggestion that the defendant has not yet regained competency.

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 million or in a county with a population of four million or more, as soon as practicable following the date of the defendant's return to the court, the court shall provide the notice required by that subdivision to the attorney representing the state and the attorney for the defendant, and the attorney for the defendant shall meet and confer with the defendant as soon as practicable after the date of receipt of that notice.

(a-1) (1) Following the defendant's return to the court, the court shall make a determination with regard to the defendant's competency to stand trial. The court may make the determination based only on the most recent report that is filed under Article 46B.079(c) and based on notice under that article, other than notice under Subsection (b)(1) of that article, and on other medical information or personal history information relating to the defendant. A party may object in writing or in open court to the findings of the most recent report not later than the 15th day after the date on which the court received the applicable notice under Article 46B.079. The court shall make the determination not later than the 20th day after the date on which the court received the applicable notice under Article 46B.079, or not later than the fifth day after the date of the defendant's return to court, whichever occurs first, regardless of whether a party objects to the report as described by this subsection and the issue is set for hearing under Subsection (b).

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 million or in a county with a population of four million or more, the court shall make the determination described by that subdivision not later than the 20th day after the date on which the court received notification under Article 46B.079, regardless of whether a party objects to the report as described by that subdivision and the issue is set for a hearing under Subsection (b).

(b) If a party objects under Subsection (a-1), the issue shall be set for a hearing. The hearing is before the court, except that on motion by the defendant, the defense counsel, the prosecuting attorney, or the court, the hearing shall be held before a jury.

(b-1) If the hearing is before the court, the hearing may be conducted by means of an electronic broadcast system as provided by Article [46B.013](#). Notwithstanding any other provision of this chapter, the defendant is not required to be returned to the court with respect to any hearing that is conducted under this article in the manner described by this subsection.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1307, Sec. 21, eff. September 1, 2007.

(d) (1) If the defendant is found competent to stand trial, on the court's own motion criminal proceedings in the case against the defendant shall be resumed not later than the 14th day after the date of the court's determination under this article that the defendant's competency has been restored.

(2) Notwithstanding Subdivision (1), in a county with a population of less than 1.2 million or in a county with a population of four million or more, on the court's own motion criminal proceedings in the case against the defendant shall be resumed as soon as practicable after the date of the court's determination under this article that the defendant's competency has been restored.

(d-1) This article does not require the criminal case to be finally resolved within any specific period.

(e) If the defendant is found incompetent to stand trial and if all charges pending against the defendant are not dismissed, the court shall proceed under Subchapter E.

(f) If the defendant is found incompetent to stand trial and if all charges pending against the defendant are dismissed, the court shall proceed under Subchapter F.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. [4559](#)), Sec. 10, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. [4559](#)), Sec. 11, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. [4559](#)), Sec. 12, eff. September 1, 2023.

#### **Art. 55.01. RIGHT TO EXPUNCTION.**

Text of subsection effective until January 01, 2025

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c);

(B) convicted and subsequently:

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

(C) convicted of an offense committed before September 1, 2021, under Section 46.02(a), Penal Code, as that section existed before that date; or

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Chapter 42A for the offense, unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested:

(i) has not been presented against the person at any time following the arrest, and:

(a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or

(d) the attorney representing the state certifies that the applicable arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person; or

(ii) if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because:

(a) the person completed a veterans treatment court program created under Chapter 124, Government Code, or former law, subject to Subsection (a-3);

(b) the person completed a mental health court program created under Chapter 125, Government Code, or former law, subject to Subsection (a-4);

(c) the person completed a pretrial intervention program authorized under Section 76.011, Government Code, other than a veterans treatment court program created under Chapter 124, Government Code, or former law, or a mental health court program created under Chapter 125, Government Code, or former law;

(d) the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense; or

(e) the indictment or information was void; or

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.

Text of subsection effective until January 01, 2025

(a-1) Notwithstanding any other provision of this article, a person may not expunge records and files relating to an arrest that occurs pursuant to a warrant issued under Article 42A.751(b).

(a-2) Notwithstanding any other provision of this article, a person who intentionally or knowingly absconds from the jurisdiction after being released under

Chapter 17 following an arrest is not eligible under Subsection (a)(2)(A)(i)(a), (b), or (c) or Subsection (a)(2)(B) for an expunction of the records and files relating to that arrest.

Text of subsection effective until January 01, 2025

(a-3) A person is eligible under Subsection (a)(2)(A)(ii)(a) for an expunction of arrest records and files only if:

- (1) the person has not previously received an expunction of arrest records and files under that sub-subparagraph; and
- (2) the person submits to the court an affidavit attesting to that fact.

Text of subsection effective until January 01, 2025

(a-4) A person is eligible under Subsection (a)(2)(A)(ii)(b) for an expunction of arrest records and files only if:

- (1) the person has not previously received an expunction of arrest records and files under that sub-subparagraph; and
- (2) the person submits to the court an affidavit attesting to that fact.

Text of subsection effective until January 01, 2025

(b) Except as provided by Subsection (c) and subject to Subsection (b-1), a district court, a justice court, or a municipal court of record may expunge all records and files relating to the arrest of a person under the procedure established under Article 55.02 if:

- (1) the person is:
  - (A) tried for the offense for which the person was arrested;
  - (B) convicted of the offense; and
  - (C) acquitted by the court of criminal appeals or, if the period for granting a petition for discretionary review has expired, by a court of appeals; or
- (2) an office of the attorney representing the state authorized by law to prosecute the offense for which the person was arrested recommends the expunction to the court before the person is tried for the offense, regardless of whether an indictment or information has been presented against the person in relation to the offense.

Text of subsection effective until January 01, 2025

(b-1) A justice court or a municipal court of record may only expunge records and files under Subsection (b) that relate to the arrest of a person for an offense punishable by fine only.

Text of subsection effective until January 01, 2025

(c) A court may not order the expunction of records and files relating to an arrest for an offense for which a person is subsequently acquitted, whether by the trial court, a court of appeals, or the court of criminal appeals, if the offense for which the person was acquitted arose out of a criminal episode, as defined by Section 3.01, Penal Code, and the person was convicted of or remains subject to prosecution for at least one other offense occurring during the criminal episode.

Text of subsection effective until January 01, 2025

(d) A person is entitled to obtain the expunction of any information that identifies the person, including the person's name, address, date of birth, driver's license number, and social security number, contained in records and files relating to the person's arrest or the arrest of another person if:

(1) the expunction of identifying information is sought with respect to the arrest of the person asserting the entitlement and the person was arrested solely as a result of identifying information that was inaccurate due to a clerical error; or

(2) the expunction of identifying information is sought with respect to the arrest of a person other than the person asserting the entitlement and:

(A) the information identifying the person asserting the entitlement was falsely given by the arrested person as the arrested person's identifying information without the consent of the person asserting the entitlement; and

(B) the only reason why the identifying information of the person asserting the entitlement is contained in the applicable arrest records and files is because of the deception of the arrested person.

(e) For purposes of this article, records and files relating to an arrest include:

(1) a DNA record created under Subchapter G, Chapter 411, Government Code;

(2) any record of the collection of the specimen from which the DNA record was created; and

(3) any record of the transfer of the specimen to the Department of Public Safety.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. [3956](#)), Sec. 1, eff. September 1, 2023.

**Art. 55.02. PROCEDURE FOR EXPUNCTION.**

Text of section effective until January 01, 2025

Sec. 1. At the request of the acquitted person and after notice to the state, or at the request of the attorney for the state with the consent of the acquitted person, the trial court presiding over the case in which the person was acquitted, if the trial court is a district court, a justice court, or a municipal court of record, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(A) not later than the 30th day after the date of the acquittal. On acquittal, the trial court shall advise the acquitted person of the right to expunction. The party requesting the order of expunction shall provide to the court all of the information required in a petition for expunction under Section 2(b). The attorney for the acquitted person in the case in which the person was acquitted, if the person was represented by counsel, or the attorney for the state, if the person was not represented by counsel or if the attorney for the state requested the order of expunction, shall prepare the order for the court's signature.

Text of section effective until January 01, 2025

Sec. 1a.

Text of section effective until January 01, 2025

(a) The trial court presiding over a case in which a person is convicted and subsequently granted relief or pardoned on the basis of actual innocence of the offense of which the person was convicted, if the trial court is a district court, a justice court, or a municipal court of record, or a district court in the county in which the trial court is located shall enter an order of expunction for a person entitled to expunction under Article 55.01(a)(1)(B)(ii) not later than the 30th day after the date the court receives



notice of the pardon or other grant of relief. The person shall provide to the court all of the information required in a petition for expunction under Section 2(b).

Text of section effective until January 01, 2025

(a-1) A trial court dismissing a case following a person's successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law, if the trial court is a district court, or a district court in the county in which the trial court is located may, with the consent of the attorney representing the state, enter an order of expunction for a person entitled to expunction under Article 55.01(a)(2)(A)(ii)(a) not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable. Notwithstanding any other law, a court that enters an order for expunction under this subsection may not charge any fee or assess any cost for the expunction.

Text of section effective until January 01, 2025

(a-2) A trial court dismissing a case following a person's successful completion of a mental health court program created under Chapter 125, Government Code, or former law, if the trial court is a district court, or a district court in the county in which the trial court is located may, with the consent of the attorney representing the state, enter an order of expunction for a person entitled to expunction under Article 55.01(a)(2)(A)(ii)(b) not later than the 30th day after the date the court dismisses the case or receives the information regarding that dismissal, as applicable. Notwithstanding any other law, a court that enters an order for expunction under this subsection may not charge any fee or assess any cost for the expunction.

Text of subsection effective until January 01, 2025

(b) The attorney for the state shall:

- (1) prepare an expunction order under this section for the court's signature; and
- (2) notify the Texas Department of Criminal Justice if the person is in the custody of the department.

Text of subsection effective until January 01, 2025

(c) The court shall include in an expunction order under this section a listing of each official, agency, or other entity of this state or political subdivision of this state and each private entity that there is reason to believe has any record or file that is subject to the order. The court shall also provide in an expunction order under this section that:

- (1) the Texas Department of Criminal Justice shall send to the court the documents delivered to the department under Section 8(a), Article 42.09; and
- (2) the Department of Public Safety and the Texas Department of Criminal Justice shall delete or redact, as appropriate, from their public records all index references to the records and files that are subject to the expunction order.

Text of subsection effective until January 01, 2025

(d) The court shall retain all documents sent to the court under Subsection (c)(1) until the statute of limitations has run for any civil case or proceeding relating to the wrongful imprisonment of the person subject to the expunction order.

Sec. 2.

Text of subsection effective until January 01, 2025

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), 55.01(a)(1)(C), or 55.01(a)(2) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

Text of subsection effective until January 01, 2025

(a-1) If the arrest for which expunction is sought is for an offense punishable by fine only, a person who is entitled to expunction of records and files under Article 55.01(a) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a justice court or a municipal court of record in the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

Text of subsection effective until January 01, 2025

(b) A petition filed under Subsection (a) or (a-1) must be verified and must include the following or an explanation for why one or more of the following is not included:

- (1) the petitioner's:
  - (A) full name;
  - (B) sex;
  - (C) race;
  - (D) date of birth;
  - (E) driver's license number;
  - (F) social security number; and
  - (G) address at the time of the arrest;
- (2) the offense charged against the petitioner;
- (3) the date the offense charged against the petitioner was alleged to have been committed;
- (4) the date the petitioner was arrested;
- (5) the name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
- (6) the name of the agency that arrested the petitioner;
- (7) the case number and court of offense; and
- (8) together with the applicable physical or e-mail addresses, a list of all:
  - (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;
  - (B) central federal depositories of criminal records that the petitioner has reason to believe have records or files that are subject to expunction; and
  - (C) private entities that compile and disseminate for compensation criminal history record information that the petitioner has reason to believe have information related to records or files that are subject to expunction.

Text of subsection effective until January 01, 2025

(c) The court shall set a hearing on the matter no sooner than thirty days from the filing of the petition and shall give to each official or agency or other governmental entity named in the petition reasonable notice of the hearing by:

- (1) certified mail, return receipt requested; or
- (2) secure electronic mail, electronic transmission, or facsimile transmission.

Text of subsection effective until January 01, 2025

(c-1) An entity described by Subsection (c) may be represented by the attorney responsible for providing the entity with legal representation in other matters.

Text of subsection effective until January 01, 2025

(d) If the court finds that the petitioner, or a person for whom an ex parte petition is filed under Subsection (e), is entitled to expunction of any records and files that are the subject of the petition, it shall enter an order directing expunction.

Text of subsection effective until January 01, 2025

(e) The director of the Department of Public Safety or the director's authorized representative may file on behalf of a person described by Subsection (a) of this section or by Section 2a an ex parte petition for expunction in a district court for the county in which:

- (1) the person was arrested; or
- (2) the offense was alleged to have occurred.

Text of subsection effective until January 01, 2025

(f) An ex parte petition filed under Subsection (e) must be verified and must include the following or an explanation for why one or more of the following is not included:

- (1) the person's:
  - (A) full name;
  - (B) sex;
  - (C) race;

- (D) date of birth;
  - (E) driver's license number;
  - (F) social security number; and
  - (G) address at the time of the arrest;
- (2) the offense charged against the person;
  - (3) the date the offense charged against the person was alleged to have been committed;
  - (4) the date the person was arrested;
  - (5) the name of the county where the person was arrested and if the arrest occurred in a municipality, the name of the municipality;
  - (6) the name of the agency that arrested the person;
  - (7) the case number and court of offense; and
  - (8) together with the applicable physical or e-mail addresses, a list of all:

- (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;

- (B) central federal depositories of criminal records that the person has reason to believe have records or files that are subject to expunction; and

- (C) private entities that compile and disseminate for compensation criminal history record information that the person has reason to believe have information relating to records or files that are subject to expunction.

Sec. 2a.

(a) A person who is entitled to expunction of information contained in records and files under Article 55.01(d) may file an application for expunction with the attorney representing the state in the prosecution of felonies in the county in which:

- (1) the person resides; or
- (2) the offense was alleged to have occurred.

Text of subsection effective until January 01, 2025

(b) The application must be verified, include authenticated fingerprint records of the applicant, and include the following or an explanation for why one or more of the following is not included:

- (1) the applicant's full name, sex, race, date of birth, driver's license number, social security number, and address at the time of the applicable arrest;
- (2) the following information regarding the arrest:
  - (A) the date of arrest;
  - (B) the offense charged against the person arrested;
  - (C) the name of the county or municipality in which the arrest occurred; and
  - (D) the name of the arresting agency; and
- (3) a statement, as appropriate, that the applicant:
  - (A) was arrested solely as a result of identifying information that was inaccurate due to a clerical error; or
  - (B) is not the person arrested and for whom the arrest records and files were created and did not give the arrested person consent to falsely identify himself or herself as the applicant.

Text of subsection effective until January 01, 2025

- (c) After verifying the allegations in an application received under Subsection (a), the attorney representing the state shall:
  - (1) include on the application information regarding the arrest that was requested of the applicant but was unknown by the applicant;
  - (2) forward a copy of the application to the district court for the county;
  - (3) together with the applicable physical or e-mail addresses, attach to the copy a list of all:
    - (A) law enforcement agencies, jails or other detention facilities, magistrates, courts, prosecuting attorneys, correctional facilities, central state depositories of criminal records, and other officials or agencies or other entities of this state or of any political subdivision of this state;
    - (B) central federal depositories of criminal records that are reasonably likely to have records or files containing information that is subject to expunction; and
    - (C) private entities that compile and disseminate for compensation criminal history record information that are reasonably likely to have records or files containing information that is subject to expunction; and
  - (4) request the court to enter an order directing expunction based on an entitlement to expunction under Article 55.01(d).

Text of subsection effective until January 01, 2025

(d) On receipt of a request under Subsection (c), the court shall, without holding a hearing on the matter, enter a final order directing expunction.

Sec. 3.

Text of subsection effective until January 01, 2025

(a) In an order of expunction issued under this article, the court shall require any state agency that sent information concerning the arrest to a central federal depository to request the depository to return all records and files subject to the order of expunction. The person who is the subject of the expunction order or an agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases.

Text of subsection effective until January 01, 2025

(b) The order of expunction entered by the court shall have attached and incorporate by reference a copy of the judgment of acquittal and shall include:

- (1) the following information on the person who is the subject of the expunction order:
  - (A) full name;
  - (B) sex;
  - (C) race;
  - (D) date of birth;
  - (E) driver's license number; and
  - (F) social security number;
- (2) the offense charged against the person who is the subject of the expunction order;
- (3) the date the person who is the subject of the expunction order was arrested;
- (4) the case number and court of offense; and
- (5) the tracking incident number (TRN) assigned to the individual incident of arrest under Article 66.251(b)(1) by the Department of Public Safety.

(c) When the order of expunction is final, the clerk of the court shall send a certified copy of the order to the Crime Records Service of the Department of Public Safety and to each official or agency or other governmental entity of this state or of any political subdivision of this state named in the order. The certified copy of the order must be sent by secure electronic mail, electronic transmission, or facsimile transmission or otherwise by certified mail, return receipt requested. In sending the order to a governmental entity named in the order, the clerk may elect to substitute hand delivery for certified mail under this subsection, but the clerk must receive a receipt for that hand-delivered order.

Text of subsection effective until January 01, 2025

(c-1) The Department of Public Safety shall notify any central federal depository of criminal records by any means, including secure electronic mail, electronic transmission, or facsimile transmission, of the order with an explanation of the effect of the order and a request that the depository, as appropriate, either:

(1) destroy or return to the court the records in possession of the depository that are subject to the order, including any information with respect to the order; or

(2) comply with Section 5(f) pertaining to information contained in records and files of a person entitled to expunction under Article 55.01(d).

Text of subsection effective until January 01, 2025

(c-2) The Department of Public Safety shall also provide, by secure electronic mail, electronic transmission, or facsimile transmission, notice of the order to any private entity that is named in the order or that purchases criminal history record information from the department. The notice must include an explanation of the effect of the order and a request that the entity destroy any information in the possession of the entity that is subject to the order. The department may charge to a private entity that purchases criminal history record information from the department a fee in an amount sufficient to recover costs incurred by the department in providing notice under this subsection to the entity.

Text of subsection effective until January 01, 2025



(d) Any returned receipts received by the clerk from notices of the hearing and copies of the order shall be maintained in the file on the proceedings under this chapter.  
Sec. 4.

Text of subsection effective until January 01, 2025

(a) If the state establishes that the person who is the subject of an expunction order is still subject to conviction for an offense arising out of the transaction for which the person was arrested because the statute of limitations has not run and there is reasonable cause to believe that the state may proceed against the person for the offense, the court may provide in its expunction order that the law enforcement agency and the prosecuting attorney responsible for investigating the offense may retain any records and files that are necessary to the investigation.

Text of subsection effective until January 01, 2025

(a-1) The court shall provide in its expunction order that the applicable law enforcement agency and prosecuting attorney may retain the arrest records and files of any person who becomes entitled to an expunction of those records and files based on the expiration of a period described by Article 55.01(a)(2)(A)(i)(a), (b), or (c), but without the certification of the prosecuting attorney as described by Article 55.01(a)(2)(A)(i)(d).

Text of subsection effective until January 01, 2025

(a-2) In the case of a person who is the subject of an expunction order on the basis of an acquittal, the court may provide in the expunction order that the law enforcement agency and the prosecuting attorney retain records and files if:

(1) the records and files are necessary to conduct a subsequent investigation and prosecution of a person other than the person who is the subject of the expunction order; or

(2) the state establishes that the records and files are necessary for use in:

(A) another criminal case, including a prosecution, motion to adjudicate or revoke community supervision, parole revocation hearing, mandatory supervision revocation hearing, punishment hearing, or bond hearing; or

(B) a civil case, including a civil suit or suit for possession of or access to a child.

Text of subsection effective until January 01, 2025

(b) Unless the person who is the subject of the expunction order is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Subsection (a-1) or (a-2), the provisions of Articles 55.03 and 55.04 apply to files and records retained under this section.

Sec. 5.

Text of subsection effective until January 01, 2025

(a) Except as provided by Subsections (f) and (g), on receipt of the order, each official or agency or other governmental entity named in the order shall:

(1) return all records and files that are subject to the expunction order to the court or in cases other than those described by Section 1a, if removal is impracticable, obliterate all portions of the record or file that identify the person who is the subject of the order and notify the court of its action; and

(2) delete from its public records all index references to the records and files that are subject to the expunction order.

Text of subsection effective until January 01, 2025

(b) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d), the court may give the person who is the subject of the order all records and files returned to it pursuant to its order.

Text of subsection effective until January 01, 2025

(c) Except in the case of a person who is the subject of an expunction order based on an entitlement under Article 55.01(d) and except as provided by Subsection (g), if an order of expunction is issued under this article, the court records concerning expunction proceedings are not open for inspection by anyone except the person who is

the subject of the order unless the order permits retention of a record under Section 4 of this article and the person is again arrested for or charged with an offense arising out of the transaction for which the person was arrested or unless the court provides for the retention of records and files under Section 4(a) of this article. The clerk of the court issuing the order shall obliterate all public references to the proceeding and maintain the files or other records in an area not open to inspection.

Text of subsection effective until January 01, 2025

(d) Except in the case of a person who is the subject of an expunction order on the basis of an acquittal or an expunction order based on an entitlement under Article 55.01(d) and except as provided by Subsection (g), the clerk of the court shall destroy all the files or other records maintained under Subsection (c) not earlier than the 60th day after the date the order of expunction is issued or later than the first anniversary of that date unless the records or files were released under Subsection (b).

Text of subsection effective until January 01, 2025

(d-1) Not later than the 30th day before the date on which the clerk destroys files or other records under Subsection (d), the clerk shall provide notice by mail, electronic mail, or facsimile transmission to the attorney representing the state in the expunction proceeding. If the attorney representing the state in the expunction proceeding objects to the destruction not later than the 20th day after receiving notice under this subsection, the clerk may not destroy the files or other records until the first anniversary of the date the order of expunction is issued or the first business day after that date.

Text of subsection effective until January 01, 2025

(e) The clerk shall certify to the court the destruction of files or other records under Subsection (d) of this section.

Text of subsection effective until January 01, 2025

(f) On receipt of an order granting expunction to a person entitled to expunction under Article 55.01(d), each official, agency, or other governmental entity named in the order:

(1) shall:

(A) obliterate all portions of the record or file that identify the petitioner; and

(B) substitute for all obliterated portions of the record or file any available information that identifies the person arrested; and

(2) may not return the record or file or delete index references to the record or file.

Text of subsection effective until January 01, 2025

(g) Notwithstanding any other provision in this section, an official, agency, court, or other entity may retain receipts, invoices, vouchers, or similar records of financial transactions that arose from the expunction proceeding or prosecution of the underlying criminal cause in accordance with internal financial control procedures. An official, agency, court, or other entity that retains records under this subsection shall obliterate all portions of the record or the file that identify the person who is the subject of the expunction order.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 543 (H.B. [3956](#)), Sec. 2, eff. September 1, 2023.

Repealed by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 3.001(6), eff. January 1, 2025.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 861 (H.B. [3474](#)), Sec. 12.006(a), eff. September 1, 2023.

## **EDUCATION CODE**

### **TITLE 2. PUBLIC EDUCATION**

#### **SUBTITLE A. GENERAL PROVISIONS**

#### **CHAPTER 5. DEFINITIONS**

**Sec. 5.001. DEFINITIONS.**

In this title:

(1) "Agency" means the Texas Education Agency.

(1-a) "Child who is homeless," "person who is homeless," and "student who is homeless" have the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(2) "Classroom teacher" means an educator who is employed by a school district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator.

(3) "Commissioner" means the commissioner of education.

(4) "Educationally disadvantaged" means eligible to participate in the national free or reduced-price lunch program established under 42 U.S.C. Section 1751 et seq.

(5) "Educator" means a person who is required to hold a certificate issued under Subchapter B, Chapter 21.

*Text of subdivision effective until December 01, 2019*

(5-a) "Mental health condition" means an illness, disease, or disorder, other than epilepsy, dementia, substance abuse, or intellectual disability, that:

(A) substantially impairs a person's thought, perception of reality, emotional process, or judgment; or

(B) grossly impairs behavior as demonstrated by recent disturbed behavior.

*Text of subdivision effective on December 01, 2019*

(5-a) "Mental health condition" means a persistent or recurrent pattern of thoughts, feelings, or behaviors that:

(A) constitutes a mental illness, disease, or disorder, other than or in addition to epilepsy, substance abuse, or an intellectual disability; or

(B) impairs a person's social, emotional, or educational functioning and increases the risk of developing a condition described by Paragraph (A).

(6) "Open-enrollment charter school" means a school that has been granted a charter under Subchapter D, Chapter 12.

(6-a) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) is not operated by a governmental entity.

(7) "Regional education service centers" means a system of regional and educational services established in Chapter 8.

(8) "Residential facility" means:

(A) a facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

(B) any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under Paragraph (A).

*Text of subdivision effective on December 01, 2019*

(9) "Substance abuse" means a patterned use of a substance, including a controlled substance, as defined by Chapter 481, Health and Safety Code, and alcohol, in which the person consumes the substance in amounts or with methods that are harmful to the person's self or to others.

## **SUBCHAPTER C. CRIMINAL HISTORY RECORDS**

### **Sec. 22.081. DEFINITIONS.**

In this subchapter:

(1) "Department" means the Department of Public Safety.

(2) "National criminal history record information" means criminal history record information obtained from the department under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(3) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) is not operated by a governmental entity.

**Sec. 37.0811. SCHOOL MARSHALS: PUBLIC SCHOOLS.**

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint one or more school marshals for each campus.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section [1701.260](#), Occupations Code. The board of trustees or governing body may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and

(2) at a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section [9.32](#) or [9.33](#), Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section [1701.260](#), Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the district or charter school; or

(4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a school inquires in writing, the school district or open-enrollment charter school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

#### **Sec. 37.0812. TRAINING POLICY: SCHOOL DISTRICT PEACE OFFICERS AND SCHOOL RESOURCE OFFICERS.**

(a) A school district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement at least once in each four-year period.

(b) A school district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Section 1701.263, Occupations Code.

(c) A school district may not contract for the provision of active shooter response training under this section unless the training provider is certified under Section 1701.2515, Occupations Code, to provide the training.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 9, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1152 (S.B. 999), Sec. 1, eff. September 1, 2023.

#### **Sec. 37.08131. MEMORANDUM OF UNDERSTANDING BETWEEN PUBLIC AND PRIVATE SCHOOLS REGARDING SCHOOL MARSHALS.**



(a) In this section, "public or private primary or secondary school" means a school district, open-enrollment charter school, or private school.

(b) A public or private primary or secondary school may enter into a memorandum of understanding with another public or private primary or secondary school under which a school marshal appointed to a campus of the school may temporarily act as a school marshal at a campus of the other school for the duration of an event occurring at the campus of the other school at which both schools are participating. The memorandum of understanding must comply with the requirements for written regulations under Section [37.0811](#) or [37.0813](#), as applicable, and may be used to satisfy the requirement for written regulations or written authorization under Section 46.03(a)(1), Penal Code, to allow that school marshal to carry a firearm on the premises of the public or private primary or secondary school at which the event occurs.

Added by:

Acts 2023, 88th Leg., R.S., Ch. 744 (H.B. [3623](#)), Sec. 1, eff. June 12, 2023.

**Sec. 37.0813. SCHOOL MARSHALS: PRIVATE SCHOOLS.**

(a) The governing body of a private school may appoint one or more school marshals.

(b) The governing body of a private school may select for appointment as a school marshal under this section an applicant who is an employee of the school and certified as eligible for appointment under Section [1701.260](#), Occupations Code.

(c) A school marshal appointed by the governing body of a private school may carry or possess a handgun on the physical premises of a school, but only in the manner provided by written regulations adopted by the governing body.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun as described by Subsection (c), except that if the primary duty of the school marshal involves regular, direct contact with students in a classroom setting, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A private school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the private school; or

(4) notice from the governing body that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a private school inquires in writing, the school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

(i) This section does not apply to a school whose students meet the definition provided by Section 29.916(a)(1).

#### **Sec. 37.0814. ARMED SECURITY OFFICER REQUIRED.**

(a) The board of trustees of each school district shall determine the appropriate number of armed security officers for each district campus. The board must ensure that at least one armed security officer is present during regular school hours at each district campus.

(b) A security officer described by Subsection (a) must be:

(1) a school district peace officer;

(2) a school resource officer; or

(3) a commissioned peace officer employed as security personnel under Section 37.081.

(c) If the board of trustees of a school district is unable to comply with this section, the board may claim a good cause exception from the requirement to comply with this section if the district's noncompliance is due to the availability of:

- (1) funding; or
- (2) personnel who qualify to serve as a security officer described by

Subsection (a).

(d) The board of trustees of a school district that claims a good cause exception under Subsection (c) must develop an alternative standard with which the district is able to comply, which may include providing a person to act as a security officer who is:

- (1) a school marshal; or
- (2) a school district employee or a person with whom the district contracts

who:

(A) has completed school safety training provided by a qualified handgun instructor certified in school safety under Section [411.1901](#), Government Code; and

(B) carries a handgun on school premises in accordance with written regulations or written authorization of the district under Section [46.03\(a\)\(1\)\(A\)](#), Penal Code.

(e) The board of trustees of a school district must develop and maintain documentation of the district's implementation of and compliance with this section, including documentation related to a good cause exception claimed under Subsection (c), and shall, if requested by the agency, provide that documentation to the agency in the manner prescribed by the agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 10, eff. September 1, 2023.

**Sec. 37.0815. TRANSPORTATION OR STORAGE OF FIREARM AND AMMUNITION BY LICENSE HOLDER IN SCHOOL PARKING AREA.**

(a) A school district or open-enrollment charter school may not prohibit a person, including a school employee, who holds a license to carry a handgun under Subchapter H, Chapter [411](#), Government Code, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district or charter school and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

(b) This section does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Section [37.125](#) of this code, Section [46.03](#), Penal Code, or other law.

**Sec. 51.220. PUBLIC JUNIOR COLLEGE SCHOOL MARSHALS.**

(a) In this section, "public junior college" has the meaning assigned by Section [61.003](#).

(b) The governing board of a public junior college may appoint one or more school marshals.

(c) The governing board of a public junior college may select for appointment as a school marshal under this section an applicant who is an employee of the public junior college and certified as eligible for appointment under Section [1701.260](#), Occupations Code. The governing board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(d) A school marshal appointed by the governing board of a public junior college may carry or possess a handgun on the physical premises of a public junior college campus, but only:

(1) in the manner provided by written regulations adopted by the governing board; and

(2) at a specific public junior college campus as specified by the governing board.

(e) Any written regulations adopted for purposes of Subsection (d) must provide that a school marshal may carry a concealed handgun as described by Subsection (d), except that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a public junior college campus in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty. The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(f) A school marshal may access a handgun under this section only under circumstances that would justify the use of deadly force under Section [9.32](#) or [9.33](#), Penal Code.

(g) A public junior college employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section [1701.260](#), Occupations Code;

(2) suspension or revocation of the employee's license to carry a concealed handgun issued under Subchapter H, Chapter [411](#), Government Code;

(3) termination of the employee's employment with the public junior college; or

(4) notice from the governing board of the public junior college that the employee's services as school marshal are no longer required.

(h) The identity of a school marshal appointed under this section is confidential, except as provided by Section [1701.260\(j\)](#), Occupations Code, and is not subject to a request under Chapter [552](#), Government Code.

(i) If a parent or guardian of a student enrolled at a public junior college inquires in writing, the governing board of the public junior college shall provide the parent or guardian written notice indicating whether any employee of the public junior college is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (h).

### **Sec. 61.003. DEFINITIONS.**

In this chapter:

(1) "Board" means the Texas Higher Education Coordinating Board.

(2) "Public junior college" means any junior college ~~certified by the board~~ in accordance with Section [61.063](#) ~~of this chapter~~.

(3) "General academic teaching institution" means The University of Texas at Austin; The University of Texas at El Paso; The University of Texas of the Permian Basin; The University of Texas at Dallas; The University of Texas at San Antonio; Texas A&M University, Main University; The University of Texas at Arlington; Tarleton State University; Prairie View A&M University; Texas Maritime Academy; Texas Tech University; University of North Texas; Lamar University; Lamar State College--Orange; Lamar State College--Port Arthur; Texas A&M University--Kingsville; Texas A&M University--Corpus Christi; Texas Woman's University; Texas Southern University; Midwestern State University; University of Houston; University of Texas--Pan American; The University of Texas at Brownsville; Texas A&M University--Commerce; Sam Houston State University; Texas State University; West Texas A&M University;

Stephen F. Austin State University; Sul Ross State University; Angelo State University; The University of Texas at Tyler; and any other college, university, or institution so classified as provided in this chapter or created and so classified, expressly or impliedly, by law.

(4) "Public senior college or university" means a general academic teaching institution as defined above.

(5) "Medical and dental unit" means The Texas A&M University System Health Science Center and its component institutions, agencies, and programs; the Texas Tech University Health Sciences Center; the Texas Tech University Health Sciences Center at El Paso; the University of Houston College of Medicine; the Sam Houston State University College of Osteopathic Medicine; The University of Texas Medical Branch at Galveston; The University of Texas Southwestern Medical Center; The University of Texas Medical School at San Antonio; The University of Texas Dental Branch at Houston; The University of Texas M. D. Anderson Cancer Center; The University of Texas Graduate School of Biomedical Sciences at Houston; The University of Texas Dental School at San Antonio; The University of Texas Medical School at Houston; the Dell Medical School at The University of Texas at Austin; the School of Medicine at The University of Texas Rio Grande Valley; the nursing institutions of The Texas A&M University System and The University of Texas System; and The University of Texas School of Public Health at Houston; and such other medical or dental schools as may be established by statute or as provided in this chapter.

(6) "Other agency of higher education" means The University of Texas System, System Administration; The University of Texas at El Paso Museum; The Texas A&M University System, Administrative and General Offices; Texas A&M AgriLife Research; Texas A&M AgriLife Extension Service; Rodent and Predatory Animal Control Service (a part of the Texas A&M AgriLife Extension Service); Texas A&M Engineering Experiment Station (including the Texas A&M Transportation Institute); Texas A&M Engineering Extension Service; Texas A&M Forest Service; Texas Division of Emergency Management; Texas Tech University Museum; Texas State University System, System Administration; Sam Houston Memorial Museum; Panhandle-Plains Historical Museum; Cotton Research Committee of Texas; Texas Water Resources Institute; Texas A&M Veterinary Medical Diagnostic Laboratory; and any other unit, division, institution, or agency which shall be so designated by statute or which may be established to operate as a component part of any public senior college or university, or which may be so classified as provided in this chapter.

(7) "Public technical institute" means the Lamar Institute of Technology or the Texas State Technical College System.

(8) "Institution of higher education" means any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in this section.

(9) "Governing board" means the body charged with policy direction of any public technical institute, public junior college, public senior college or university, medical or dental unit, or other agency of higher education, including but not limited to boards of directors, boards of regents, boards of trustees, and independent school district boards insofar as they are charged with policy direction of a public junior college.

(10) "University system" means the association of one or more public senior colleges or universities, medical or dental units, or other agencies of higher education under the policy direction of a single governing board.

(11) "Degree program" means any grouping of subject matter courses which, when satisfactorily completed by a student, will entitle the student to:

(A) a degree from a public senior college or university or a medical or dental unit; or

(B) an academic associate degree, as defined by board rule, or baccalaureate degree from a public junior college.

(12) "Certificate program" means a grouping of subject-matter courses which, when satisfactorily completed by a student, will entitle the student to:

(A) a certificate;

(B) an associate degree, other than an academic associate degree, as defined by board rule, from a technical institute or junior college; or

(C) documentary evidence, other than a degree, of completion of a course of study at the postsecondary level.

(13) "Recognized accrediting agency" means the Southern Association of Colleges and Schools and any other association or organization so designated by the board.

(14) "Educational and general buildings and facilities" means buildings and facilities essential to or commonly associated with teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprises. Excluded are auxiliary enterprise buildings and facilities, including but not limited to dormitories, cafeterias, student union buildings, stadiums, and alumni centers, used solely for those purposes.

(15) "Private or independent institution of higher education" includes only a private or independent college or university that is:

(A) organized under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);

(B) exempt from taxation under Article VIII, Section 2, of the Texas Constitution and Section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501); and

(C) accredited by:

(i) the Commission on Colleges of the Southern Association of Colleges and Schools;

(ii) the Liaison Committee on Medical Education; or

(iii) the American Bar Association.

(16) "Public state college" means Lamar State College--Orange, Lamar State College--Port Arthur, or the Lamar Institute of Technology.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 165 (S.B. 1887), Sec. 4, eff. May 23, 2023.

Acts 2023, 88th Leg., R.S., Ch. 378 (H.B. 8), Sec. 17, eff. September 1, 2023.

## **FAMILY CODE**

### **Sec. 58.007. CONFIDENTIALITY OF PROBATION DEPARTMENT, PROSECUTOR, AND COURT RECORDS.**

(a) This section applies only to the inspection, copying, and maintenance of a record concerning a child and the storage of information, by electronic means or otherwise, concerning the child from which a record could be generated and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B or D-1. This section does not apply to a record relating to a child that is:

(1) required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state;

(2) maintained by a municipal or justice court;

(3) subject to disclosure under Chapter 62, Code of Criminal Procedure;

(4) required to be provided to the Federal Bureau of Investigation under Section 411.052, Government Code, for use with the National Instant Criminal Background Check System; or



(5) required to be forwarded to the Department of Public Safety under Section [411.0521](#), Government Code.

(b) Except as provided by Section [54.051](#)(d-1) and by Article [15.27](#), Code of Criminal Procedure, the records, whether physical or electronic, of a juvenile court, a clerk of court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding under this title may be inspected or copied only by:

- (1) the judge, probation officers, and professional staff or consultants of the juvenile court;
- (2) a juvenile justice agency as that term is defined by Section [58.101](#);
- (3) an attorney representing the child's parent in a proceeding under this title;
- (4) an attorney representing the child;
- (5) a prosecuting attorney;
- (6) an individual or entity to whom the child is referred for treatment or services, including assistance in transitioning the child to the community after the child's release or discharge from a juvenile facility;
- (7) a public or private agency or institution providing supervision of the child by arrangement of the juvenile court, or having custody of the child under juvenile court order; or
- (8) with permission from the juvenile court, any other individual, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

(b-1) A person who is the subject of the records is entitled to access the records for the purpose of preparing and presenting a motion or application to seal the records.

(c) An individual or entity that receives confidential information under this section may not disclose the information unless otherwise authorized by law.

(d) Repealed by Acts 2017, 85th Leg., R.S., Ch. 746 (S.B. [1304](#)), Sec. 21(4), eff. September 1, 2017.

(e) Repealed by Acts 2017, 85th Leg., R.S., Ch. 746 (S.B. [1304](#)), Sec. 21(4), eff. September 1, 2017.

(f) Repealed by Acts 2017, 85th Leg., R.S., Ch. 746 (S.B. [1304](#)), Sec. 21(4), eff. September 1, 2017.

(g) For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the juvenile court that made the adjudication. If a court receives a request from a prosecuting attorney under this

subsection, the court shall, if the court possesses the requested record of adjudication, certify and provide the prosecuting attorney with a copy of the record. If a record has been sealed under this chapter, the juvenile court may not provide a copy of the record to a prosecuting attorney under this subsection.

(h) The juvenile court may disseminate to the public the following information relating to a child who is the subject of a directive to apprehend or a warrant of arrest and who cannot be located for the purpose of apprehension:

- (1) the child's name, including other names by which the child is known;
- (2) the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;
- (3) a photograph of the child; and
- (4) a description of the conduct the child is alleged to have committed, including the level and degree of the alleged offense.

(i) In addition to the authority to release information under Subsection (b)(6), a juvenile probation department may release information contained in its records without leave of the juvenile court pursuant to guidelines adopted by the juvenile board.

(j) Repealed by Acts 2019, 86th Leg., R.S., Ch. 131 (H.B. [1760](#)), Sec. 12(3), eff. September 1, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 341 (S.B. [728](#)), Sec. 3, eff. September 1, 2023.

### **Sec. 85.022. REQUIREMENTS OF ORDER APPLYING TO PERSON WHO COMMITTED FAMILY VIOLENCE.**

(a) In a protective order, the court may order the person found to have committed family violence to perform acts specified by the court that the court determines are necessary or appropriate to prevent or reduce the likelihood of family violence and may order that person to:

- (1) complete a battering intervention and prevention program accredited under Article [42.141](#), Code of Criminal Procedure;
- (2) beginning on September 1, 2008, if the referral option under Subdivision (1) is not available, complete a program or counsel with a provider that has begun the accreditation process described by Subsection (a-1); or
- (3) if the referral option under Subdivision (1) or, beginning on September 1, 2008, the referral option under Subdivision (2) is not available, counsel

with a social worker, family service agency, physician, psychologist, licensed therapist, or licensed professional counselor who has completed family violence intervention training that the community justice assistance division of the Texas Department of Criminal Justice has approved, after consultation with the licensing authorities described by Chapters [152](#), [501](#), [502](#), [503](#), and [505](#), Occupations Code, and experts in the field of family violence.

(a-1) Beginning on September 1, 2009, a program or provider serving as a referral option for the courts under Subsection (a)(1) or (2) must be accredited under Section 4A, Article [42.141](#), Code of Criminal Procedure, as conforming to program guidelines under that article.

(b) In a protective order, the court may prohibit the person found to have committed family violence from:

(1) committing family violence;

(2) communicating:

(A) directly with a person protected by an order or a member of the family or household of a person protected by an order, in a threatening or harassing manner;

(B) a threat through any person to a person protected by an order or a member of the family or household of a person protected by an order; and

(C) if the court finds good cause, in any manner with a person protected by an order or a member of the family or household of a person protected by an order, except through the party's attorney or a person appointed by the court;

(3) going to or near the residence or place of employment or business of a person protected by an order or a member of the family or household of a person protected by an order;

(4) going to or near the residence, child-care facility, or school a child protected under the order normally attends or in which the child normally resides;

(5) engaging in conduct directed specifically toward a person who is a person protected by an order or a member of the family or household of a person protected by an order, including following the person, that is reasonably likely to harass, annoy, alarm, abuse, torment, or embarrass the person;

(6) possessing a firearm, unless the person is a peace officer, as defined by Section [1.07](#), Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision; and

(7) harming, threatening, or interfering with the care, custody, or control of a pet, companion animal, or assistance animal, as defined by Section [121.002](#),

Human Resources Code, that is possessed by or is in the actual or constructive care of a person protected by an order or by a member of the family or household of a person protected by an order.

(8) tracking or monitoring personal property or a motor vehicle in the possession of a person protected by an order or of a member of the family or household of a person protected by an order, without the person's effective consent, including by:

(A) using a tracking application on a personal electronic device in the possession of the person or the family or household member or using a tracking device; or

(B) physically following the person or the family or household member or causing another to physically follow the person or member.

(c) In an order under Subsection (b)(3) or (4), the court shall specifically describe each prohibited location and the minimum distances from the location, if any, that the party must maintain. This subsection does not apply to an order in which Section 85.007 applies.

(d) In a protective order, the court shall suspend a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code, that is held by a person found to have committed family violence.

(e) In this section, "firearm" has the meaning assigned by Section 46.01, Penal Code.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 839 (H.B. 2715), Sec. 5, eff. September 1, 2023.

## HEALTH & SAFETY CODE

### Sec. 12.092. MEDICAL ADVISORY BOARD; BOARD MEMBERS.

(a) The commissioner shall appoint the medical advisory board members from:

(1) persons licensed to practice medicine in this state, including physicians who are board certified in internal medicine, psychiatry, neurology, physical medicine, or ophthalmology and who are jointly recommended by the department and the Texas Medical Association; and

(2) persons licensed to practice optometry in this state who are jointly recommended by the department and the Texas Optometric Association.

(b) The medical advisory board shall assist the Department of Public Safety of the State of Texas in determining whether:

(1) an applicant for a driver's license or a license holder is capable of safely operating a motor vehicle; or

(2) an applicant for or holder of a license to carry a handgun under the authority of Subchapter H, Chapter 411, Government Code, or an applicant for or holder of a commission as a security officer under Chapter 1702, Occupations Code, is capable of exercising sound judgment with respect to the proper use and storage of a handgun.

#### **Sec. 12.095. BOARD PANELS; POWERS AND DUTIES.**

(a) If the Department of Public Safety of the State of Texas requests an opinion or recommendation from the medical advisory board as to the ability of an applicant or license holder to operate a motor vehicle safely or to exercise sound judgment with respect to the proper use and storage of a handgun, the commissioner or a person designated by the commissioner shall convene a panel to consider the case or question submitted by that department.

(b) To take action as a panel, at least three members of the medical advisory board must be present.

(c) Each panel member shall prepare an individual independent written report for the Department of Public Safety of the State of Texas that states the member's opinion as to the ability of the applicant or license holder to operate a motor vehicle safely or to exercise sound judgment with respect to the proper use and storage of a handgun, as appropriate. In the report the panel member may also make recommendations relating to that department's subsequent action.

(d) In its deliberations, a panel may examine any medical record or report that contains material that may be relevant to the ability of the applicant or license holder.

(e) The panel may require the applicant or license holder to undergo a medical or other examination at the applicant's or holder's expense. A person who conducts an examination under this subsection may be compelled to testify before the panel and in any subsequent proceedings under Subchapter H, Chapter 411, Government Code, or Subchapter N, Chapter 521, Transportation Code, as applicable, concerning the person's observations and findings.

#### **Sec. 12.097. CONFIDENTIALITY REQUIREMENTS.**

(a) All records, reports, and testimony relating to the medical condition of an applicant or license holder:

(1) are for the confidential use of the medical advisory board, a panel, or the Department of Public Safety of the State of Texas;

(2) are privileged information; and

(3) may not be disclosed to any person or used as evidence in a trial except as provided by Subsection (b).

(b) In a subsequent proceeding under Subchapter H, Chapter 411, Government Code, or Subchapter N, Chapter 521, Transportation Code, the department may provide a copy of the report of the medical advisory board or panel and a medical record or report relating to an applicant or license holder to:

(1) the Department of Public Safety of the State of Texas;

(2) the applicant or license holder; and

(3) the officer who presides at the hearing.

#### **Sec. 552.002. CARRYING OF HANDGUN BY LICENSE HOLDER IN STATE HOSPITAL.**

(a) In this section:

(1) "License holder" has the meaning assigned by Section 46.03, Penal Code.

(2) "State hospital" means the following facilities:

(A) the Austin State Hospital;

(B) the Big Spring State Hospital;

(C) the El Paso Psychiatric Center;

(D) the Kerrville State Hospital;

(E) the North Texas State Hospital;

(F) the Rio Grande State Center;

(G) the Rusk State Hospital;

(H) the San Antonio State Hospital;

(I) the Terrell State Hospital; and

(J) the Waco Center for Youth.

(3) "Written notice" means a sign that is posted on property and that:

(A) includes in both English and Spanish written language identical to the following: "Pursuant to Section 552.002, Health and Safety Code (carrying of handgun by license holder in state hospital), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun";

(B) appears in contrasting colors with block letters at least one inch in height; and

(C) is displayed in a conspicuous manner clearly visible to the public at each entrance to the property.

(b) A state hospital may prohibit a license holder from carrying a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of the hospital by providing written notice.

(c) A license holder who carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, on the property of a state hospital at which written notice is provided is liable for a civil penalty in the amount of:

- (1) \$100 for the first violation; or
- (2) \$500 for the second or subsequent violation.

(d) The attorney general or an appropriate prosecuting attorney may sue to collect a civil penalty under this section.

#### **Sec. 574.088. RELIEF FROM DISABILITIES IN MENTAL HEALTH CASES.**

(a) A person who is furloughed or discharged from court-ordered mental health services may petition the court that entered the commitment order for an order stating that the person qualifies for relief from a firearms disability.

(b) In determining whether to grant relief, the court must hear and consider evidence about:

- (1) the circumstances that led to imposition of the firearms disability under 18 U.S.C. Section 922(g)(4);
- (2) the person's mental history;
- (3) the person's criminal history; and
- (4) the person's reputation.

(c) A court may not grant relief unless it makes and enters in the record the following affirmative findings:

- (1) the person is no longer likely to act in a manner dangerous to public safety; and
- (2) removing the person's disability to purchase a firearm is in the public interest.

## **HUMAN RESOURCES CODE**

### **Sec. 42.042. RULES AND STANDARDS.**

(e-2) The department may not prohibit the foster parent of a child who resides in the foster family's home from transporting the child in a vehicle where a handgun is present if the handgun is in the possession and control of the foster parent and the foster parent is not otherwise prohibited by law from carrying a handgun.

### **Sec. 80.001. FINGERPRINTING FOR IDENTIFICATION.**

(a) A state law enforcement agency or the law enforcement agency of any political subdivision of the state shall comply with the request of a person to have a record of his fingerprints made or a record of the fingerprints of a child or ward of the person made.

(b) A law enforcement agency may charge a fee not to exceed \$10 for the service provided under this section and may retain records of fingerprints made under this section.

## **LABOR CODE**

### **SUBCHAPTER G. RESTRICTIONS ON PROHIBITING EMPLOYEE TRANSPORTATION OR STORAGE OF CERTAIN FIREARMS OR AMMUNITION**

#### **Sec. 52.061. RESTRICTION ON PROHIBITING EMPLOYEE ACCESS TO OR STORAGE OF FIREARM OR AMMUNITION.**

A public or private employer may not prohibit an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition from transporting or storing a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

#### **Sec. 52.062. EXCEPTIONS.**

(a) Section 52.061 does not:

(1) authorize a person who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, who otherwise lawfully possesses a



firearm, or who lawfully possesses ammunition to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or

(2) apply to:

(A) a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;

(B) a school district;

(C) an open-enrollment charter school, as defined by Section 5.001, Education Code;

(D) a private school, as defined by Section 22.081, Education Code;

(E) property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or

(F) property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials, except in regard to an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, and who stores a firearm or ammunition the employee is authorized by law to possess in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees that is outside of a secured and restricted area:

(i) that contains the physical plant;

(ii) that is not open to the public; and

(iii) the ingress into which is constantly monitored by security personnel.

(b) Section 52.061 does not prohibit an employer from prohibiting an employee who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, or who otherwise lawfully possesses a firearm, from possessing a firearm the employee is otherwise authorized by law to possess on the premises of the employer's business. In this subsection, "premises" has the meaning assigned by Section 46.03, Penal Code.

**Sec. 52.063. IMMUNITY FROM CIVIL LIABILITY.**

(a) Except in cases of gross negligence, a public or private employer, or the employer's principal, officer, director, employee, or agent, is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under this subchapter.

(b) The presence of a firearm or ammunition on an employer's property under the authority of this subchapter does not by itself constitute a failure by the employer to provide a safe workplace.

(c) For purposes of this section, a public or private employer, or the employer's principal, officer, director, employee, or agent, does not have a duty:

(1) to patrol, inspect, or secure:

(A) any parking lot, parking garage, or other parking area the employer provides for employees; or

(B) any privately owned motor vehicle located in a parking lot, parking garage, or other parking area described by Paragraph (A); or

(2) to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition.

**Sec. 52.064. CONSTRUCTION OF PROVISION RELATING TO IMMUNITY FROM CIVIL LIABILITY.**

Section [52.063](#) does not limit or alter the personal liability of:

(1) an individual who causes harm or injury by using a firearm or ammunition;

(2) an individual who aids, assists, or encourages another individual to cause harm or injury by using a firearm or ammunition; or

(3) an employee who transports or stores a firearm or ammunition on the property of the employee's employer but who fails to comply with the requirements of Section [52.061](#).

**LOCAL GOVERNMENT CODE**

**TITLE 5. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES**

**SUBTITLE C. MATTERS AFFECTING PUBLIC OFFICERS AND EMPLOYEES OF MORE THAN ONE TYPE OF LOCAL GOVERNMENT**

**CHAPTER 179. AUTHORITY OF CERTAIN FIRST RESPONDERS TO CARRY  
HANDGUN**

**SUBCHAPTER A. GENERAL PROVISIONS**

**Sec. 179.001. DEFINITIONS.**

In this chapter:

- (1) "Department" means the Department of Public Safety of the State of Texas.
- (2) "First responder" has the meaning assigned by Section 46.01, Penal Code.
- (3) "Handgun" has the meaning assigned by Section 46.01, Penal Code.

**Sec. 179.002. APPLICABILITY OF CHAPTER.**

This chapter applies only to:

- (1) a municipality with a population of 30,000 or less that has not adopted Chapter 174; and
- (2) a county with a population of 250,000 or less that has not adopted Chapter 174.

**Sec. 179.003. CONSTRUCTION OF CHAPTER.**

- (a) This chapter does not create a cause of action or liability.
- (b) This chapter may not be construed to waive, under Chapter 101, Civil Practice and Remedies Code, or any other law, a municipality's or county's governmental immunity from suit or to liability.

**SUBCHAPTER B. AUTHORITY AND REQUIREMENTS TO CARRY HANDGUN**

**Sec. 179.051. AUTHORITY OF MUNICIPALITY OR COUNTY TO PROHIBIT OR REGULATE CARRYING HANDGUN.**

- (a) A municipality or county to which this chapter applies and that employs or supervises first responders may not adopt or enforce an ordinance, order, or other

measure that generally prohibits a first responder who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from the department under Section 411.1883(d), Government Code, and the required liability policy under Section 179.053 from:

(1) carrying a concealed or holstered handgun while on duty; or

(2) storing a handgun on the premises of or in a vehicle owned or leased by the municipality or county if the handgun is secured with a device approved by the department under Section 411.1883(f), Government Code.

(b) This section does not prohibit a municipality or county from adopting an ordinance, order, or other measure that:

(1) prohibits a first responder from carrying a handgun while on duty based on the conduct of the first responder; or

(2) limits the carrying of a handgun only to the extent necessary to ensure that carrying the handgun does not interfere with the first responder's duties.

Added by: Acts 2021, 87th Leg., R.S., Ch. 1026 (H.B. 1069), Sec. 4, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. 4595), Sec. 24.002(14), eff. September 1, 2023.

**Sec. 179.052. AUTHORITY OF EMPLOYERS AND SUPERVISORS.**

(a) A municipal or county department or private entity that employs or supervises first responders providing services for a municipality or county to which this chapter applies may adopt a policy authorizing a first responder who is employed or supervised by the municipal or county department or private entity and who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, an unexpired certificate of completion from the department under Section 411.1883(d), Government Code, and the required liability policy under Section 179.053 to:

(1) carry a concealed or holstered handgun while on duty; or

(2) store a handgun on the premises of or in a vehicle owned or leased by the applicable municipality or county, or by the private entity if the handgun is

secured with a device approved by the department under Section [411.1883\(f\)](#), Government Code.

(b) A first responder employed or supervised by a municipal or county department or private entity may not engage in conduct described by Subsection (a)(1) or (2) unless the municipal or county department or private entity has adopted a policy under Subsection (a) that authorizes that conduct.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 24.002(15), eff. September 1, 2023.

**Sec. 179.053. LIABILITY INSURANCE REQUIRED.**

A first responder shall maintain liability insurance coverage in an amount of at least \$1 million if:

- (1) the first responder carries a handgun while on duty; and
- (2) the handgun is not an essential part of the first responder's duties.

**Sec. 179.054. STORAGE OF HANDGUN.**

(a) A first responder who enters a location where carrying a handgun is prohibited by federal law or otherwise shall use a device approved by the department under Section [411.1883\(f\)](#), Government Code, to secure and store the handgun.

(b) A first responder is responsible for procuring the device approved by the department under Section [411.1883\(f\)](#), Government Code, or for reimbursing the first responder's employer or supervisor for the use of a device provided by the employer or supervisor.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 768 (H.B. [4595](#)), Sec. 24.002(16), eff. September 1, 2023.

**Sec. 179.055. DISCHARGE OF HANDGUN.**

A first responder may discharge a handgun while on duty only in self-defense.

**Sec. 179.056. LIMITED LIABILITY.**

(a) A municipality or county that employs or supervises first responders is not liable in a civil action arising from the discharge of a handgun by a first responder who is licensed to carry the handgun under Subchapter H, Chapter 411, Government Code.

(b) The discharge of a handgun by a first responder who is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the first responder's duties.

**Sec. 179.057. COMPLAINTS.**

A member of the public may submit a complaint to the municipality or county employing or supervising the first responder using the municipality's or county's existing complaint procedure. One or more complaints received with respect to a specific first responder are grounds for prohibiting or limiting that first responder's carrying a handgun while on duty.

**Sec. 229.001. FIREARMS; AIR GUNS; KNIVES; EXPLOSIVES.**

(a) Notwithstanding any other law, including Section [43.002](#) of this code and Chapter [251](#), Agriculture Code, a municipality may not adopt or enforce regulations that:

(1) relate to:

(A) the transfer, possession, wearing, carrying, ownership, storage, transportation, licensing, or registration of firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories;

(B) commerce in firearms, air guns, knives, ammunition, or firearm or air gun supplies or accessories; or

(C) the discharge of a firearm or air gun at a sport shooting range;

or

(2) require an owner of a firearm to obtain liability insurance coverage for damages resulting from negligent or willful acts involving the use of the firearm.

(a-1) An ordinance, resolution, rule, or policy adopted or enforced by a municipality, or an official action, including in any legislative, police power, or proprietary capacity, taken by an employee or agent of a municipality in violation of this section is void.

(b) Subsection (a) does not affect the authority a municipality has under another law to:

(1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;

(2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;

(3) except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;

(4) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(5) regulate the carrying of an air gun or firearm, other than a handgun carried by a person not otherwise prohibited by law from carrying a handgun, at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(6) regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, in accordance with Section 411.209, Government Code;

(7) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(8) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner; or

(9) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

(b-1) The exception provided by Subsection (b)(3) does not apply if the ordinance or regulation is designed or enforced to effectively restrict or prohibit the

manufacture, sale, purchase, transfer, or display of firearms, firearm accessories, or ammunition that is otherwise lawful in this state.

(c) The exception provided by Subsection (b)(5) does not apply if the firearm or air gun is in or is carried to or from an area designated for use in a lawful hunting, fishing, or other sporting event and the firearm or air gun is of the type commonly used in the activity.

(d) Nothing in this section may be construed to authorize the seizure or confiscation of any firearm, air gun, knife, ammunition, or firearm or air gun supplies or accessories from an individual who is lawfully carrying or possessing the firearm, air gun, knife, ammunition, or firearm or air gun supplies or accessories.

(d-1) The exception provided by Subsection (b)(9) does not authorize a municipality to regulate an employee's carrying or possession of a firearm in violation of Subchapter G, Chapter 52, Labor Code.

(e) In this section:

(1) "Air gun" means any gun that discharges a pellet, BB, or paintball by means of compressed air, gas propellant, or a spring.

(2) "Ammunition" means fixed cartridge ammunition, shotgun shells, individual components of fixed cartridge ammunition and shotgun shells, projectiles for muzzle-loading firearms, or any propellant used in firearms or ammunition.

(3) "Firearm or air gun accessory" means a device specifically designed or adapted to:

(A) enable the wearing or carrying by a person, or the storage or mounting in or on a conveyance, of a firearm or air gun; or

(B) be inserted into or affixed to a firearm or air gun to enable, alter, or improve the functioning or capabilities of the firearm.

(4) "Knife" has the meaning assigned by Section 46.01, Penal Code.

(5) "Sport shooting range" has the meaning assigned by Section 250.001.

(f) The attorney general may bring an action in the name of the state to obtain a temporary or permanent injunction against a municipality adopting a regulation in violation of this section. The attorney general may recover reasonable expenses incurred in obtaining an injunction under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(g) This section does not limit the enforceability of any state or federal law.



Amended by:

Acts 2023, 88th Leg., R.S., Ch. 595 (H.B. [3137](#)), Sec. 1, eff. September 1, 2023.

## OCCUPATIONS CODE

### Sec. 1701.001. DEFINITIONS.

In this chapter:

- (1) "Commission" means the Texas Commission on Law Enforcement.
- (2) "County jailer" means a person employed as a county jail guard under Section [85.005](#), Local Government Code.
- (2-a) "Misconduct" means:
  - (A) a violation of law; or
  - (B) any of the following that have been sustained by a law enforcement agency employing a license holder:
    - (i) a violation of a law enforcement agency policy for which the agency may suspend, demote, or terminate a license holder's employment; or
    - (ii) an allegation of untruthfulness against a license holder.
- (3) "Officer" means a peace officer or reserve law enforcement officer.

Text of subdivision effective until January 01, 2025

- (4) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article [2.12](#), Code of Criminal Procedure, or other law.

Text of subdivision effective on January 01, 2025

- (4) "Peace officer" means a person elected, employed, or appointed as a peace officer under Article [2A.001](#), Code of Criminal Procedure, or other law.
- (5) "Public security officer" means a person employed or appointed as an armed security officer by this state or a political subdivision of this state. The term does not include a security officer employed by a private security company that contracts with this state or a political subdivision of this state to provide security services for the entity.

(6) "Reserve law enforcement officer" means a person designated as a reserve law enforcement officer under Section [85.004](#), [86.012](#), or [341.012](#), Local Government Code, or Section [60.0775](#), Water Code.

(7) "Telecommunicator" means a person acknowledged by the commission and employed by or serving a law enforcement agency that performs law enforcement services on a 24-hour basis who receives, processes, and transmits public safety information and criminal justice data for the agency by using a base radio station on a public safety frequency regulated by the Federal Communications Commission or by another method of communication.

Text of subdivision effective until January 01, 2025

(8) "School marshal" means a person who:

(A) is appointed to serve as a school marshal by:

(i) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section [37.0811](#), Education Code;

(ii) the governing body of a private school under Section [37.0813](#), Education Code; or

(iii) the governing board of a public junior college under Section [51.220](#), Education Code;

(B) is licensed under Section [1701.260](#); and

(C) has powers and duties described by Article [2.127](#), Code of Criminal Procedure.

Text of subdivision effective on January 01, 2025

(8) "School marshal" means a person who:

(A) is appointed to serve as a school marshal by:

(i) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section [37.0811](#), Education Code;

(ii) the governing body of a private school under Section [37.0813](#), Education Code; or

(iii) the governing board of a public junior college under Section [51.220](#), Education Code;

(B) is licensed under Section [1701.260](#); and

(C) has powers and duties described by Article [2.127](#), Code of Criminal Procedure.

Text of subdivision effective on January 01, 2025

(8) "School marshal" means a person who:

(A) is appointed to serve as a school marshal by:

(i) the board of trustees of a school district or the governing body of an open-enrollment charter school under Section [37.0811](#), Education Code;

(ii) the governing body of a private school under Section [37.0813](#), Education Code; or

(iii) the governing board of a public junior college under Section [51.220](#), Education Code;

(B) is licensed under Section [1701.260](#); and

(C) has powers and duties described by Article [2A.008](#), Code of Criminal Procedure.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 2.146, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 1104 (S.B. [1445](#)), Sec. 1, eff. September 1, 2023.

**Sec. 1701.260. TRAINING FOR HOLDERS OF LICENSE TO CARRY A HANDGUN; CERTIFICATION OF ELIGIBILITY FOR APPOINTMENT AS SCHOOL MARSHAL.**

(a) The commission shall establish and maintain a training program open to any employee of a school district, open-enrollment charter school, private school, or public junior college who holds a license to carry a handgun issued under Subchapter H, Chapter [411](#), Government Code. The training may be conducted only by the commission staff or a provider approved by the commission.

Text of subsection effective until January 01, 2025

(a-1) In this section, "private school" has the meaning assigned by Article [2.127](#), Code of Criminal Procedure.

Text of subsection effective on January 01, 2025

(a-1) In this section, "private school" has the meaning assigned by Article [2A.008](#), Code of Criminal Procedure.

(b) The commission shall collect from each person who participates in the training program identifying information that includes the person's name, the person's date of birth, the license number of the license issued to the person under Subchapter H, Chapter [411](#), Government Code, and the address of the person's place of employment.

(c) The training program shall include 80 hours of instruction designed to:

- (1) emphasize strategies for preventing school shootings and for securing the safety of potential victims of school shootings;
- (2) educate a trainee about legal issues relating to the duties of peace officers and the use of force or deadly force in the protection of others;
- (3) introduce the trainee to effective law enforcement strategies and techniques;
- (4) improve the trainee's proficiency with a handgun; and
- (5) enable the trainee to respond to an emergency situation requiring deadly force, such as a situation involving an active shooter.

(d) The commission, in consultation with psychologists, shall devise and administer to each trainee a psychological examination to determine whether the trainee is psychologically fit to carry out the duties of a school marshal in an emergency shooting or situation involving an active shooter. The commission may license a person under this section only if the results of the examination indicate that the trainee is psychologically fit to carry out those duties.

(e) The commission shall charge each trainee a reasonable fee to cover the cost to the commission of conducting the program. The commission shall charge each person seeking renewal of a school marshal license a reasonable fee to cover the cost to the commission of renewing the person's license.

(f) The commission shall license a person who is eligible for appointment as a school marshal who:

- (1) completes training under this section to the satisfaction of the commission staff; and
- (2) is psychologically fit to carry out the duties of a school marshal as indicated by the results of the psychological examination administered under this section.

(g) A person's license under this section expires on the first birthday of the person occurring after the second anniversary of the date the commission licenses the person. A renewed school marshal license expires on the person's birth date, two years after the expiration of the previous license.

(h) A person may renew the school marshal license under this section by:

(1) successfully completing a renewal course designed and administered by the commission, which such license renewal training will not exceed 16 hours combined of classroom and simulation training;

(2) demonstrating appropriate knowledge on an examination designed and administered by the commission;

(3) demonstrating handgun proficiency to the satisfaction of the commission staff; and

(4) demonstrating psychological fitness on the examination described in Subsection (d).

(i) The commission shall revoke a person's school marshal license if the commission is notified by the Department of Public Safety that the person's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code, has been suspended or revoked. A person whose school marshal license is revoked may obtain recertification by:

(1) furnishing proof to the commission that the person's handgun license has been reinstated; and

(2) completing the initial training under Subsection (c) to the satisfaction of the commission staff, paying the fee for the training, and demonstrating psychological fitness on the psychological examination described in Subsection (d).

(j) The commission shall submit the identifying information collected under Subsection (b) for each person licensed by the commission under this section to:

(1) the director of the Department of Public Safety;

(2) the person's employer, if the person is employed by a school district, open-enrollment charter school, private school, or public junior college;

(3) the chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a school district, open-enrollment charter school, private school, or public junior college located within a municipality;

(4) the sheriff of the county if the person is employed at a campus of a school district, open-enrollment charter school, private school, or public junior college that is not located within a municipality; and

(5) the chief administrator of any peace officer commissioned under Section [37.081](#) or [51.203](#), Education Code, if the person is employed at a school district or public junior college that has commissioned a peace officer under either section.

(k) The commission shall immediately report the expiration or revocation of a school marshal license to the persons listed in Subsection (j).

(l) All information collected or submitted under this section is confidential, except as provided by Subsection (j), and is not subject to disclosure under Chapter [552](#), Government Code.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. [4504](#)), Sec. 2.148, eff. January 1, 2025.

#### **Sec. 1701.301. LICENSE REQUIRED.**

Except as provided by Sections [1701.310](#), [1701.311](#), and [1701.405](#), a person may not appoint or employ a person to serve as an officer, county jailer, school marshal, public security officer, or telecommunicator unless the person holds an appropriate license issued by the commission.

#### **Sec. 1701.355. CONTINUING DEMONSTRATION OF WEAPONS PROFICIENCY.**

(a) An agency that employs one or more peace officers shall designate a firearms proficiency officer and require each peace officer the agency employs to demonstrate weapons proficiency to the firearms proficiency officer at least annually. The agency shall maintain records of the weapons proficiency of the agency's peace officers.

(a-1) An agency that employs one or more county jailers who have been issued a certificate of firearms proficiency under Section [1701.2561](#) shall designate a firearms proficiency officer and require the jailers to demonstrate weapons proficiency to the firearms proficiency officer at least annually. The agency shall maintain records of the weapons proficiency of the agency's jailers. A county jailer's failure to demonstrate weapons proficiency does not affect the county jailer's license under this chapter.

(b) On request, the commission may waive the requirement that a peace officer or county jailer demonstrate weapons proficiency on a determination by the commission that the requirement causes a hardship.

(c) The commission by rule shall define weapons proficiency for purposes of this section.

**Sec. 1701.357. WEAPONS PROFICIENCY FOR QUALIFIED RETIRED LAW ENFORCEMENT OFFICERS.**

(a) In this section, "qualified retired law enforcement officer" has the meaning assigned by 18 U.S.C. Section 926C.

(a-1) This section applies only to a qualified retired law enforcement officer who is entitled to carry a concealed firearm under 18 U.S.C. Section 926C.

(b) The head of a state or local law enforcement agency may allow a qualified retired law enforcement officer who is a retired commissioned peace officer an opportunity to demonstrate weapons proficiency if the officer provides to the agency a sworn affidavit stating that:

(1) the officer:

(A) honorably retired after not less than a total of 10 years of cumulative service as a commissioned officer with one or more state or local law enforcement agencies; or

(B) before completing 10 years of cumulative service as a commissioned officer with one or more state or local law enforcement agencies, separated from employment with the agency or agencies and is a qualified retired law enforcement officer;

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's term of service as a commissioned officer; and

(3) the officer has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

(b-1) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. [1552](#)), Sec. 7(2), eff. September 1, 2019.

(c) The state or local law enforcement agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this subsection. The agency shall issue the certificate to a retired commissioned peace officer who satisfactorily demonstrates weapons proficiency under Subsection (b) and satisfies the written procedures established by the agency. The agency shall maintain records of any person who holds a certificate issued under this subsection.

(c-1) For purposes of this section, proof that an individual is a qualified retired law enforcement officer may include a retired peace officer identification card issued under Subchapter H, Chapter 614, Government Code, or other form of identification as described by 18 U.S.C. Section 926C(d).

(d) A certificate issued under this section expires on the first anniversary of the date the certificate was issued.

(e) The head of a state or local law enforcement agency may set and collect fees to recover the expenses the agency incurs in performing duties under this section.

(f) The amount of a fee set by a county law enforcement agency under Subsection (e) is subject to the approval of the commissioners court of the county. A county law enforcement agency that collects a fee under Subsection (e) shall deposit the amounts collected to the credit of the general fund of the county.

(g) A county law enforcement agency must obtain approval of the program authorized by this section from the commissioners court of the county before issuing a certificate of proficiency under this section.

(h) The head of a state law enforcement agency may allow a qualified retired law enforcement officer, other than a retired commissioned peace officer, an opportunity to demonstrate weapons proficiency in the same manner as, and subject to the same requirements applicable to, a retired commissioned peace officer as described by Subsection (b). The agency shall establish written procedures for the issuance or denial of a certificate of proficiency under this subsection. The agency shall issue a certificate of proficiency to a qualified retired law enforcement officer who satisfactorily demonstrates weapons proficiency under this subsection and satisfies the written procedures established by the agency. The agency shall maintain records regarding the issuance of that certificate.

(i) On request of a qualified retired law enforcement officer who holds a certificate of proficiency under this section, the head of the state or local law enforcement agency from which the officer retired or most recently separated shall issue to the officer identification that indicates that the officer honorably retired or separated from the agency. An identification under this subsection must include a photograph of the officer.

(j) Repealed by Acts 2019, 86th Leg., R.S., Ch. 1234 (H.B. 1552), Sec. 7(2), eff. September 1, 2019.



## **SUBCHAPTER C. FIREARMS POLICY**

### **Sec. 2155.101. DEFINITION.**

In this subchapter, "hotel" means a hotel, motel, inn, or similar business entity that offers more than 10 rooms to the public for temporary lodging for a fee.

### **Sec. 2155.1025. FIREARMS POLICY.**

(a) Unless possession of a handgun or other firearm or ammunition on hotel property is prohibited by state or federal law, a hotel may not adopt a policy prohibiting a hotel guest from:

- (1) carrying or storing a firearm or firearm ammunition in the guest's hotel room;
- (2) carrying a firearm or firearm ammunition directly en route to or from the hotel or the guest's hotel room;
- (3) carrying a firearm or firearm ammunition directly en route to or from the guest's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests; or
- (4) carrying or storing a firearm or firearm ammunition in the guest's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests.

(b) A hotel may adopt a policy requiring a hotel guest carrying a firearm or firearm ammunition in a common area on the hotel property to:

- (1) carry a handgun in a concealed manner; or
- (2) carry a firearm or ammunition in a case or bag.

## **PARKS & WILDLIFE CODE**

### **Sec. 62.081. WEAPONS PROHIBITED.**

Except as provided in Section [62.082](#) of this code, no person may hunt with, possess, or shoot a firearm, bow, crossbow, slingshot, or any other weapon on or across the land of the Lower Colorado River Authority.

**Sec. 62.082. TARGET RANGES, MANAGED HUNTS, AND OTHER EXCEPTIONS; RULES.**

(a) The Board of Directors of the Lower Colorado River Authority may lease river authority land to be used on a nonprofit basis for a target rifle or archery range.

(b) A member of the boy scouts or the girl scouts or other nonprofit public service group or organization may possess and shoot a firearm, bow, and crossbow for target or instructional purposes under the supervision of a qualified instructor registered with and approved by the Lower Colorado River Authority on ranges designated by the Lower Colorado River Authority.

(c) The Board of Directors of the Lower Colorado River Authority may authorize lawful hunting on Lower Colorado River Authority lands, consistent with sound biological management practices.

Text of subsection effective until January 01, 2025

(d) Section [62.081](#) does not apply to:

- (1) an employee of the Lower Colorado River Authority;
- (2) a person authorized to hunt under Subsection (c);
- (3) a peace officer as defined by Article [2.12](#), Code of Criminal

Procedure; or

(4) a person who:

(A) possesses a handgun and a license issued under Subchapter H, Chapter [411](#), Government Code, to carry a handgun; or

(B) under circumstances in which the person would be justified in the use of deadly force under Chapter [9](#), Penal Code, shoots a handgun the person is licensed to carry under Subchapter H, Chapter [411](#), Government Code.

Text of subsection effective on January 01, 2025

(d) Section [62.081](#) does not apply to:

- (1) an employee of the Lower Colorado River Authority;
- (2) a person authorized to hunt under Subsection (c);
- (3) a peace officer as defined by Article [2A.001](#), Code of Criminal

Procedure; or

(4) a person who:

(A) possesses a handgun and a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; or

(e) A state agency, including the department, the Department of Public Safety, and the Lower Colorado River Authority, may not adopt a rule that prohibits a person who possesses a license issued under Subchapter H, Chapter 411, Government Code, from entering or crossing the land of the Lower Colorado River Authority while:

- (1) possessing a handgun; or
- (2) under circumstances in which the person would be justified in the use of deadly force under Chapter 9, Penal Code, shooting a handgun.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.162, eff. January 1, 2025.

## **PROPERTY CODE**

### **TITLE 2. CONVEYANCES**

#### **CHAPTER 5. CONVEYANCES.**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

#### **Sec. 5.020. EASEMENTS RESTRICTING POSSESSION OF FIREARMS OR ALCOHOLIC BEVERAGES PROHIBITED.**

(a) In this section:

(1) "Alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(2) "Firearm" has the meaning assigned by Section 46.01, Penal Code. The term includes any firearm parts, firearm accessories, and firearm ammunition.

(b) This section does not apply to a right-of-way easement for a pipeline, electric transmission line, or other utility.

(c) An instrument granting an access easement may not restrict or prohibit an easement holder or an easement holder's guest from possessing, carrying, or transporting a firearm or an alcoholic beverage over the servient estate while using the easement for the easement's purpose.

(d) The owner of a servient estate may not enforce a restrictive covenant in an instrument granting an access easement over the servient estate that restricts or prohibits the easement holder or the easement holder's guest from possessing, carrying, or transporting a firearm or an alcoholic beverage over the servient estate while using the easement for the easement's purpose.

**Sec. 82.121. POSSESSION OF FIREARM OR FIREARM AMMUNITION ON CONDOMINIUM PROPERTY.**

(a) Unless possession of a firearm or firearm ammunition on condominium property is prohibited by state or federal law, a condominium unit owner, or a tenant or guest of a condominium unit owner, or a guest of a tenant of a condominium unit owner may not be prohibited from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition:

- (1) in the condominium unit owner's unit;
- (2) in a vehicle located in a parking area provided for the residents or guests of the condominium property; or
- (3) in other common element locations as necessary to:
  - (A) enter or exit the condominium property;
  - (B) enter or exit the condominium unit owner's unit; or
  - (C) enter or exit a vehicle on the condominium property or located in a parking area provided for residents or guests of the condominium property.

(b) This section applies notwithstanding any provision of a dedicatory instrument to the contrary and regardless of the date of the provision's adoption.

**Sec. 92.026. POSSESSION OF FIREARMS OR FIREARM AMMUNITION ON LEASED PREMISES.**

Unless possession of a firearm or firearm ammunition on a landlord's property is prohibited by state or federal law, a landlord may not prohibit a tenant or a tenant's guest from lawfully possessing, carrying, transporting, or storing a firearm, any part of a firearm, or firearm ammunition:

- (1) in the tenant's rental unit;
- (2) in a vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or
- (3) in other locations controlled by the landlord as necessary to:

- (A) enter or exit the tenant's rental unit;
- (B) enter or exit the leased premises; or
- (C) enter or exit a vehicle on the leased premises or located in a parking area provided by the landlord for tenants or guests.