REVISOR'S REPORT

A NONSUBSTANTIVE REVISION OF PROVISIONS OF THE CODE OF CRIMINAL PROCEDURE

Submitted to the 88th Legislature

as part of the

Texas Legislative Council's

Statutory Revision Program

Austin, Texas
2023

FOREWORD

The Texas Legislative Council is required by Section 323.007, Government Code, to carry out a complete nonsubstantive revision of the Texas statutes as authorized by Section 43, Article III, Texas Constitution. The process involves reclassifying and rearranging the statutes in a more logical order, eliminating repealed, invalid, duplicative, and other ineffective provisions while employing a format and numbering system that will accommodate future expansion of the law, and improving the draftsmanship of the statutes as practicable. The revision is intended to further the legislature's stated purpose of making the statutes "more accessible, understandable, and usable" without altering the sense, meaning, or effect of the law.

Under the classification scheme adopted by the Texas Legislative Council, the statutes will eventually consist of 27 codes, each governing a different subject matter. To date, the council has produced and the legislature has enacted the Agriculture Code, Alcoholic Beverage Code, Business & Commerce Code, Civil Practice and Remedies Code, Education Code, Election Code (a substantive revision), Estates Code, Finance Code, Government Code, Health and Safety Code, Human Resources Code, Code, Labor Code, Local Government Code, Natural Insurance Resources Code, Occupations Code, Parks and Wildlife Code, Property Code, Special District Local Laws Code, Tax Code (Title 1 of which was a substantive revision), Transportation Code, Utilities Code, and Water Code. Council staff also assisted the state bar in the Business Organizations Code, Penal Code, and Family Code projects, which were substantive revisions, and revised miscellaneous criminal procedure provisions as Title 2 of the Code of Criminal Procedure. In addition, as part of its continuing statutory revision program, the council is carrying out a nonsubstantive revision of various portions of the Code of Criminal Procedure.

The revised provisions of the Code of Criminal Procedure included in this revision are placed in Title 1 of the Code of Criminal Procedure. That title is divided into chapters by subject matter and articles for distinct provisions of law. Articles are numbered decimally, with the number to the left of the decimal the same as the number of the chapter in which the article is contained. Except for certain provisions that are added to existing Chapter 19A of the Code of Criminal Procedure and Section 502.407 of the Transportation Code, the revised provisions are added as new chapters to Title 1 of the Code of Criminal Procedure and include subchapters for organization. Gaps have been left in chapter and article numbering to accommodate later expansions of the law.

This revisor's report reflects the enactment of Chapter 765 (H.B. 4504), Acts of the 88th Legislature, Regular Session, 2023, the Texas Legislative Council staff's revision of portions of the Code of Criminal Procedure. The revisor's report states the Revised Law, which is the text of the new law, and then provides the Source Law, which is the text of the former law from which the new law was derived. If further explanation of either the revised law or the source law is required, a Revisor's Note is included after

the source law. All substance of the source law is revised in the revised law or the reason for its omission is explained in a revisor's note.

Note that this revision does not take effect until January 1, 2025, to provide all affected persons an opportunity to review the revision more closely.

Because of the extensive reorganization of many statutes, and even provisions within a statute, it may be helpful to refer to the source law for a given chapter as a whole, so that it may be read in its former context, and to refer to the disposition table, which shows where the former statutes, as revised, appear in this code. The disposition table is printed as Appendix C to the revisor's report.

The revision required conforming amendments to several statutes. These amendments, also enacted into law by Chapter 765 (H.B. 4504), Acts of the 88th Legislature, Regular Session, 2023, are printed in Appendix A to the revisor's report. Appendix A also includes a section listing the laws repealed effective January 1, 2025, and a section stating the legislature's intent that the code be a nonsubstantive revision.

In reviewing this revisor's report, the reader should keep in mind that:

- (1) Chapter 311, Government Code (Code Construction Act), applies to the construction of each provision in the Code of Criminal Procedure that is enacted under Section 43, Article III, Texas Constitution (authorizing the continuing statutory revision program), in the same manner as to a code enacted under the continuing statutory revision program, except as otherwise expressly provided by the Code of Criminal Procedure. Chapter 311 sets out certain principles of statutory construction applicable to the revised law and also provides some definitions. The chapter is printed as Appendix B to this report.
- (2) The proposed provisions are written in modern American English. Where possible, the present tense is used, the active voice is used in preference to the passive voice, and the singular is used in preference to the plural.
- (3) This is a nonsubstantive revision. The Texas Legislative Council staff's authority does not include improving the substance of the source law. The sole purpose of the revision is to compile all the relevant law, arrange it in a logical fashion, and rewrite it without altering its sense, meaning, or legal effect. If a particular source law statute is ambiguous and the ambiguity cannot be resolved without a potential substantive effect, the ambiguity is preserved.

This revision project is under the direction of Meaghan Walsh, Legislative Counsel, of the Texas Legislative Council's legal division staff. Questions may be directed to Ms. Walsh at P.O. Box 12128, Capitol Station, Austin, Texas 78711-2128, or by telephone at (512) 463-1151.

1	CODE OF CRIMINAL PROCEDURE
2	TITLE 1. CODE OF CRIMINAL PROCEDURE
3	CHAPTER 2A. OFFICERS; POWERS AND DUTIES
4	CHAPTER 2B. LAW ENFORCEMENT INTERACTIONS WITH PUBLIC
5	CHAPTER 13A. VENUE
6	CHAPTER 31A. CHANGE OF VENUE
7	CHAPTER 45A. JUSTICE AND MUNICIPAL COURTS
8	CHAPTER 55A. EXPUNCTION OF CRIMINAL RECORDS
9	CHAPTER 19A. GRAND JURY ORGANIZATION
10	ARTICLE 19A.256. REFERRAL TO GRAND JURY IN SEXUAL ASSAULT CASES
11	TRANSPORTATION CODE
12	SECTION 502.407. OPERATION OF VEHICLE WITH EXPIRED LICENSE PLATE
13	CHAPTER 2A. OFFICERS; POWERS AND DUTIES
14	SUBCHAPTER A. TYPES OF PEACE OFFICERS
15	Art. 2A.001. PEACE OFFICERS GENERALLY 4
16	Art. 2A.002. SPECIAL INVESTIGATORS 9
17	Art. 2A.003. PEACE OFFICERS COMMISSIONED BY TRIBAL
18	COUNCIL
19	Art. 2A.004. PEACE OFFICERS FROM ADJOINING STATES 17
20	Art. 2A.005. RAILROAD PEACE OFFICERS
21	Art. 2A.006. SPECIAL RANGERS OF TEXAS AND SOUTHWESTERN
22	CATTLE RAISERS ASSOCIATION 23
23	Art. 2A.007. ADJUNCT POLICE OFFICERS
24	Art. 2A.008. SCHOOL MARSHALS
25	SUBCHAPTER B. POWERS AND DUTIES OF PEACE OFFICERS AND LAW
26	ENFORCEMENT AGENCIES
27	Art. 2A.051. GENERAL POWERS AND DUTIES OF PEACE
28	OFFICERS
29	Art. 2A.052. CARRYING WEAPON ON CERTAIN PREMISES;
30	CIVIL PENALTY
31	Art. 2A.053. SUMMONING AID
32	Art. 2A.054. REFUSAL TO ASSIST PEACE OFFICER
33	Art. 2A.055. FINE FOR FAILURE TO EXECUTE PROCESS
34	Art. 2A.056. RESPONSE TO CHILD SAFETY CHECK ALERT 36

1	Art.	2A.057.	INVESTIGATION OF CERTAIN REPORTS ALLEGING
2			ABUSE, NEGLECT, OR EXPLOITATION 3
3	Art.	2A.058.	RELEASE OF CHILD BY LAW ENFORCEMENT
4			OFFICER
5	Art.	2A.059.	NATIONALITY OR IMMIGRATION STATUS INQUIRY 42
6	Art.	2A.060.	IMMIGRATION DETAINER REQUESTS 4
7	Art.	2A.061.	MISUSED IDENTITY NOTIFICATIONS 44
8	Art.	2A.062.	EDUCATION AND TRAINING ON EYEWITNESS
9			IDENTIFICATION 4
10	Art.	2A.063.	SHERIFF AS CONSERVATOR OF THE PEACE 40
11	Art.	2A.064.	SHERIFF'S DUTIES RELATED TO CUSTODY OF
12			DEFENDANTS
13	Art.	2A.065.	DEPUTY OR OTHER OFFICER TO DISCHARGE
14			SHERIFF'S DUTIES
15	Art.	2A.066.	EXECUTION OF PROCESS BY COUNTY JAILER 49
16		St	JBCHAPTER C. ATTORNEYS REPRESENTING STATE
17	Art.	2A.101.	GENERAL DUTIES OF ATTORNEYS REPRESENTING
18			STATE
19	Art.	2A.102.	DUTIES OF DISTRICT ATTORNEYS 53
20	Art.	2A.103.	DUTIES OF COUNTY ATTORNEYS
21	Art.	2A.104.	TEMPORARY APPOINTMENT OF ATTORNEY 52
22	Art.	2A.105.	GROUNDS FOR DISQUALIFICATION 53
23	Art.	2A.106.	NEGLECT OR FAILURE OF DUTY; VIOLATION OF
24			LAW
25	Art.	2A.107.	RECORDING AND FILING COMPLAINTS 5
26	Art.	2A.108.	ASSISTANCE OF ATTORNEY GENERAL IN CERTAIN
27			CASES
28	Art.	2A.109.	ASSISTANCE OF TEXAS RANGERS IN CERTAIN
29			CASES
30	Art.	2A.110.	NOTIFICATION TO TEXAS DEPARTMENT OF
31			CRIMINAL JUSTICE OF CERTAIN INDICTMENTS 58
32	Art.	2A.111.	TRACKING USE OF CERTAIN TESTIMONY 60
33			SUBCHAPTER D. MAGISTRATES AND CLERKS
34	Art.	2A.151.	TYPES OF MAGISTRATES

1	Art. 2A.152.	GENERAL DUTIES OF MAGISTRATES	63
2	Art. 2A.153.	GENERAL DUTIES OF CLERKS	63
3	Art. 2A.154.	DEPUTY CLERKS	65
4	Art. 2A.155.	CLERK'S DISPOSAL OF CERTAIN EXHIBITS	65
5	Art. 2A.156.	COURT REPORTER'S RELEASE OF FIREARMS AND	
6		CONTRABAND TO LAW ENFORCEMENT	68
7		SUBCHAPTER E. REPORTING DUTIES	
8	Art. 2A.201.	PEACE OFFICERS: REPORT IN CONNECTION WITH	
9		CERTAIN OFFENSES INVOLVING SENSITIVE	
10		INFORMATION	69
11	Art. 2A.202.	PEACE OFFICERS: REPORT CONCERNING CERTAIN	
12		ASSAULTIVE OR TERRORISTIC OFFENSES	70
13	Art. 2A.203.	SHERIFFS: REPORT OF WARRANT OR CAPIAS	
14		INFORMATION	71
15	Art. 2A.204.	SHERIFFS: REPORT ON PRISONERS	72
16	Art. 2A.205.	CERTAIN LAW ENFORCEMENT AGENCIES: REPORT	
17		CONCERNING HUMAN TRAFFICKING CASES	72
18	Art. 2A.206.	LAW ENFORCEMENT AGENCIES: REPORT FOR	
19		OFFICER-INVOLVED INJURIES OR DEATHS	75
20	Art. 2A.207.	LAW ENFORCEMENT AGENCIES: REPORT FOR	
21		CERTAIN INJURIES OR DEATHS OF PEACE	
22		OFFICERS	78
23	Art. 2A.208.	NOTICE OF VIOLATION OF REPORTING	
24		REQUIREMENTS FOR CERTAIN INJURIES OR	
25		DEATHS; CIVIL PENALTY	80
26	Art. 2A.209.	DUTIES OF LAW ENFORCEMENT AGENCY FILING	
27		CASE	81
28	Art. 2A.210.	JUDGES: REPORTING OF CERTAIN ALIENS TO	
29		FEDERAL GOVERNMENT	83
30	Art. 2A.211.	CLERKS: HATE CRIME REPORTING	84
31	Art. 2A.212.	CLERKS: WRIT OF ATTACHMENT REPORTING	84
32	Art. 2A.213.	CLERKS, STATE AGENCIES, AND ATTORNEYS	
33		REPRESENTING STATE: REPORT TO ATTORNEY	
3 /1		CENEDAI	25

- 1 CHAPTER 2A. OFFICERS; POWERS AND DUTIES
- 2 SUBCHAPTER A. TYPES OF PEACE OFFICERS
- 3 <u>Revise</u>d Law
- 4 Art. 2A.001. PEACE OFFICERS GENERALLY. The following are
- 5 peace officers:
- 6 (1) a sheriff, a sheriff's deputy, or a reserve deputy
- 7 sheriff who holds a permanent peace officer license issued under
- 8 Chapter 1701, Occupations Code;
- 9 (2) a constable, a deputy constable, or a reserve
- 10 deputy constable who holds a permanent peace officer license issued
- 11 under Chapter 1701, Occupations Code;
- 12 (3) a marshal or police officer of a municipality or a
- 13 reserve municipal police officer who holds a permanent peace
- 14 officer license issued under Chapter 1701, Occupations Code;
- 15 (4) a ranger, officer, or member of the reserve
- 16 officer corps commissioned by the Public Safety Commission and the
- 17 director of the Department of Public Safety;
- 18 (5) an investigator of a district attorney's, criminal
- 19 district attorney's, or county attorney's office;
- 20 (6) a law enforcement agent of the Texas Alcoholic
- 21 Beverage Commission;
- 22 (7) a member of an arson investigating unit
- 23 commissioned by a municipality, a county, or the state;
- 24 (8) an officer commissioned under Section 37.081,
- 25 Education Code, or Subchapter E, Chapter 51, Education Code;
- 26 (9) an officer commissioned by the Texas Facilities
- 27 Commission;
- 28 (10) a law enforcement officer commissioned by the
- 29 Parks and Wildlife Commission;
- 30 (11) an officer commissioned under Chapter 23,
- 31 Transportation Code;
- 32 (12) a municipal park and recreational patrol officer
- 33 or security officer;
- 34 (13) a security officer or investigator commissioned

- 1 as a peace officer by the comptroller;
- 2 (14) an officer commissioned by a water control and
- 3 improvement district under Section 49.216, Water Code;
- 4 (15) an officer commissioned by a board of trustees
- 5 under Chapter 54, Transportation Code;
- 6 (16) an investigator commissioned by the Texas Medical
- 7 Board;
- 8 (17) an officer commissioned by:
- 9 (A) the board of managers of the Dallas County
- 10 Hospital District, the Tarrant County Hospital District, the Bexar
- 11 County Hospital District, or the El Paso County Hospital District
- 12 under Section 281.057, Health and Safety Code;
- 13 (B) the board of directors of the Ector County
- 14 Hospital District under Section 1024.117, Special District Local
- 15 Laws Code;
- 16 (C) the board of directors of the Midland County
- 17 Hospital District of Midland County, Texas, under Section 1061.121,
- 18 Special District Local Laws Code; or
- 19 (D) the board of hospital managers of the Lubbock
- 20 County Hospital District of Lubbock County, Texas, under Section
- 21 1053.113, Special District Local Laws Code;
- 22 (18) a county park ranger commissioned under
- 23 Subchapter E, Chapter 351, Local Government Code;
- 24 (19) an investigator employed by the Texas Racing
- 25 Commission;
- 26 (20) an officer commissioned under Chapter 554,
- 27 Occupations Code;
- 28 (21) an officer commissioned by the governing body of
- 29 a metropolitan rapid transit authority under Section 451.108,
- 30 Transportation Code, or a regional transportation authority under
- 31 Section 452.110, Transportation Code;
- 32 (22) an investigator commissioned by the attorney
- 33 general under Section 402.009, Government Code;
- 34 (23) a security officer or investigator commissioned

- as a peace officer under Chapter 466, Government Code; 1
- 2 an officer appointed by an appellate court under
- 3 Subchapter F, Chapter 53, Government Code;
- 4 (25)an officer commissioned by the state fire marshal
- under Chapter 417, Government Code; 5
- an investigator commissioned by the commissioner 6 (26)
- 7 of insurance under Section 701.104, Insurance Code;
- 8 (27)an apprehension specialist or inspector general
- 9 commissioned by the Texas Juvenile Justice Department as an officer
- under Section 242.102 or 243.052, Human Resources Code; 10
- an officer appointed by the inspector general of 11
- the Texas Department of Criminal Justice under Section 493.019, 12
- 13 Government Code;
- 14 (29)an investigator commissioned bу the Texas
- Commission on Law Enforcement under Section 1701.160, Occupations 15
- 16 Code;
- 17 (30)a fire marshal or any related officer, inspector,
- 18 or investigator commissioned by a county under Subchapter B,
- Chapter 352, Local Government Code; 19
- a fire marshal or any officer, inspector, or 20 (31)
- investigator commissioned by an emergency services district under 21
- 22 Chapter 775, Health and Safety Code;
- an officer commissioned by the State Board of 23
- 24 Dental Examiners under Section 254.013, Occupations Code, subject
- to the limitations imposed by that section; and 25
- (33)investigator commissioned 26 an bу the Texas
- 27 Juvenile Justice Department as an officer under Section 221.011,
- Human Resources Code. (Code Crim. Proc., Art. 2.12.) 28

29 Source Law

- ARE 30 2.12. WHO PEACE OFFICERS. Art.
- following are peace officers: 31
- their deputies, and those 32 (1)sheriffs,
- reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code; 33
- 34 35 (2) constables,
- deputy constables, those reserve deputy constables who hold a permanent 36
- 37 peace officer license issued under Chapter
- 38 Occupations Code;

- marshals or police officers of (3) incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;
- rangers, officers, and members of the officer corps commissioned by the Public reserve Safety Commission and the Director of the Department of Public Safety;
- (5) investigators of the attorneys', criminal district attorneys', and county attorneys' offices;
- (6) law enforcement agents of the Texas Alcoholic Beverage Commission;
- (7) each member of an arson investigating unit commissioned by a city, a county, or the state;
- (8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;
- officers commissioned by the General (9) Services Commission;
- (10) law enforcement officers
- commissioned by the Parks and Wildlife Commission; (11) officers commissioned under Chapter 23, Transportation Code;
- park (12) municipal and recreational patrolmen and security officers;
- (13) security officers and investigators commissioned as peace officers by the comptroller;
- (14) officers commissioned by a control and improvement district under Section 49.216, Water Code;
- (15) officers commissioned by a board of trustees under Chapter 54, Transportation Code; (15)
- (16) investigators commissioned by Texas Medical Board;
 - officers commissioned by:
- (A) the board of managers of Dallas County Hospital District, the Tarrant County Hospital District, the Bexar County Hospital District, or the El Paso County Hospital District under Section 281.057, Health and Safety Code;
 (B) the board of directors of the
- Ector County Hospital District under Section 1024.117, Special District Local Laws Code;
- (C) the board of directors of the Midland County Hospital District of Midland County, Texas, under Section 1061.121, Special District Local Laws Code; and
- (D) the board of hospital managers of the Lubbock County Hospital District of Lubbock County, Texas, under Section 1053.113, District Local Laws Code;
- (18) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;
- (19)investigators employed by the Texas Racing Commission;
- (20)officers commissioned under Chapter 554, Occupations Code;
- (21) officers commissioned bу governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;
- (22) investigators commissioned by attorney general under Section 402.009, Government Code;

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 33 33 34 33 34 34 35 36 36 37 37 37 37 37 37 37 37 37 37 37 37 37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

53

- (23) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;
- (24) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code; (25) officers commissioned by the state

fire marshal under Chapter 417, Government Code;

- (26) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;
- (27) apprehension specialists and inspectors general commissioned by the Texas Juvenile Justice Department as officers under Sections 242.102 and 243.052, Human Resources Code;
- (28) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;
- (29) investigators commissioned by the Texas Commission on Law Enforcement under Section 1701.160, Occupations Code;
- (30) commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code;
- (31) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;
- (32) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section;
- (33) investigators commissioned by the Texas Juvenile Justice Department as officers under Section 221.011. Human Resources Code: and
- Section 221.011, Human Resources Code; and
 (34) the fire marshal and any related officers, inspectors, or investigators commissioned by a county under Subchapter B, Chapter 352, Local Government Code.

Revisor's Note

- (1)2.12(3), Article Code of Criminal Procedure, refers to "an incorporated city, town, or village." Throughout this chapter, the revised law substitutes "municipality" for "city," "town," "village" because the terms are synonymous and "municipality" is the term used in the Local Government Code. The revised law also omits "incorporated" because, under the Local Government Code, all municipalities must be incorporated.
- (2) Article 2.12(9), Code of Criminal Procedure, refers to the "General Services Commission." In 2001, the General Services Commission was abolished and that agency's duties were given to the newly created Texas Facilities Commission and the

comptroller. Under Section 2151.003, Government Code, a reference to the "General Services Commission" means the Texas Facilities Commission or the comptroller depending on the context of the reference. The revised law substitutes "Texas Facilities Commission" for "General Services Commission" because the duties of the General Services Commission with respect to the charge and control of state buildings, grounds, or property were transferred to the Texas Facilities Commission. Further, under Article 2.12(13), Code of Criminal Procedure, the comptroller has separate authority to commission peace officers.

(3) Article 2.12(30), Code of Criminal Procedure, provides that "commission investigators commissioned by the Texas Private Security Board under Section 1702.061, Occupations Code" are officers. The revised law omits the quoted language because the provision of Section 1702.061, Occupations Code, expressly providing for the commissioning of officers by the Texas Private Security Board was repealed by Section 4.17, Chapter 1146 (H.B. 2730), Acts of the 81st Legislature, Regular Session, 2009.

23 Revised Law

- Art. 2A.002. SPECIAL INVESTIGATORS. (a) The following criminal investigators of the United States are not peace officers but have the powers of arrest, search, and seizure under the laws of this state as to felony offenses only:
- 28 (1) a special agent of the Federal Bureau of 29 Investigation;
- 30 (2) a special agent of the Secret Service;
- 31 (3) a special agent of United States Immigration and
- 32 Customs Enforcement;
- 33 (4) a special agent of the Bureau of Alcohol, Tobacco,
- 34 Firearms and Explosives;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

- 1 (5) a special agent of the United States Drug
- 2 Enforcement Administration;
- 3 (6) an inspector of the United States Postal
- 4 Inspection Service;
- 5 (7) a special agent of the Criminal Investigation
- 6 Division of the Internal Revenue Service;
- 7 (8) a civilian special agent of the United States
- 8 Naval Criminal Investigative Service;
- 9 (9) a marshal or deputy marshal of the United States
- 10 Marshals Service;
- 11 (10) a special agent of the United States Department
- 12 of State, Bureau of Diplomatic Security;
- 13 (11) a special agent of the Treasury Inspector General
- 14 for Tax Administration;
- 15 (12) a special agent of the Office of Inspector
- 16 General of the United States Social Security Administration;
- 17 (13) a special agent of the Office of Inspector
- 18 General of the United States Department of Veterans Affairs;
- 19 (14) a special agent of the Office of Inspector
- 20 General of the United States Department of Agriculture;
- 21 (15) a special agent of the Office of Export
- 22 Enforcement of the United States Department of Commerce;
- 23 (16) a special agent of the Criminal Investigation
- 24 Command of the United States Army;
- 25 (17) a special agent of the Office of Special
- 26 Investigations of the United States Air Force; and
- 27 (18) a police officer with the Office of Security and
- 28 Law Enforcement of the United States Department of Veterans
- 29 Affairs.
- 30 (b) An officer or agent designated by the Secretary of
- 31 Homeland Security under 40 U.S.C. Section 1315 for duty in
- 32 connection with the protection of property owned or occupied by the
- 33 federal government and persons on the property is not a peace
- 34 officer but has the powers of arrest, search, and seizure as to any

- 1 offense under the laws of this state.
- 2 A customs and border protection officer or border patrol 3 agent of United States Customs and Border Protection or immigration enforcement agent or deportation officer of the 4 Department of Homeland Security is not a peace officer under the 5 laws of this state but, on the premises of a port facility 6 7 designated by the commissioner of United States Customs and Border Protection as a port of entry for arrival in the United States by 8 land transportation from the United Mexican States into this state 9 or at a permanent established border patrol traffic checkpoint, has 10 the authority to detain a person pending transfer without 11 12 unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in conduct 13 that is a violation of Section 49.02, 49.04, 49.07, or 49.08, Penal 14 Code, regardless of whether the violation may be disposed of in a 15 criminal proceeding or a juvenile justice proceeding. 16
- 17 (d) A commissioned law enforcement officer of the National Park Service is not a peace officer under the laws of this state but 18 19 has the powers of arrest, search, and seizure as to any offense under the laws of this state committed in a national park or 20 national recreation area. In this subsection, "national park or 21 national recreation area" means a national park or national 22 recreation area included in the National Park System as defined by 23 54 U.S.C. Section 100102. 24
- (e) A special agent or law enforcement officer of the United States Forest Service is not a peace officer under the laws of this state but has the powers of arrest, search, and seizure as to any offense under the laws of this state committed in the National Forest System, as that term is defined by 16 U.S.C. Section 1609.
- (f) Security personnel working at a commercial nuclear power plant, including contract security personnel, trained and qualified under a security plan approved by the United States Nuclear Regulatory Commission, are not peace officers under the laws of this state but have the powers of arrest, search, and

- seizure, including the powers under Section 9.51, Penal Code, while 1
- 2 in the performance of duties on the premises of a commercial nuclear
- power plant site or under an agreement entered into with local law 3
- 4 enforcement regarding areas surrounding the plant site.
- 5 In addition to the powers of arrest, search, and seizure
- 6 Subsection (a), a special agent of the Secret Service
- 7 protecting or investigating a threat against a person described by
- 8 18 U.S.C. Section 3056(a) has the powers of arrest, search, and
- 9 seizure as to:
- a misdemeanor offense under the laws of 10 (1)this
- 11 state; and

16 17

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41 42

43

44

45

46

47

48

49

50

51

52

53

- (2)any criminal offense under federal law. 12
- 13 Crim. Proc., Art. 2.122.)

14 Source Law

- SPECIAL INVESTIGATORS. Art. 2.122. (a) following named criminal investigators of the United States shall not be deemed peace officers, but shall have the powers of arrest, search, and seizure under the laws of this state as to felony offenses only: (1) Special Agents of the Federal Bureau
- of Investigation;
 - (2) Special Agents of the Secret Service;
- (3)Special Agents of the United States Immigration and Customs Enforcement;
- (4)Special Agents of of the Bureau Alcohol, Tobacco, Firearms and Explosives;
- (5) Special Agents of the United States Drug Enforcement Administration;
- Inspectors of the United States Postal (6) Inspection Service;
- (7)Special Agents of the Criminal Investigation Division of the Internal Revenue Service;
- (8) Civilian Special Agents of the United States Naval Criminal Investigative Service;
- Marshals and Deputy Marshals (9) United States Marshals Service;
- (10)Special Agents of the United States Department of State, Bureau of Diplomatic Security;
- (11)of Special Agents the Treasury Inspector General for Tax Administration;
- (12)Special Agents of the Office Inspector General of the United States Social Security Administration;
- of the o.f (13)Special Agents Office Inspector General of the United States Department of Veterans Affairs;
- (14)Special Agents of the Office of Inspector General of the United States Department of Agriculture;
- (15)Special Agents of the Export Enforcement of the United States Department of Commerce;

- (16) Special Agents of the Criminal Investigation Command of the United States Army;
- (17) Special Agents of the Office of Special Investigations of the United States Air Force; and
- (18) a police officer with the Office of Security and Law Enforcement of the United States Department of Veterans Affairs.
- (b) An officer or agent designated by the Secretary of Homeland Security under 40 U.S.C. Section 1315 for duty in connection with the protection of property owned or occupied by the federal government and persons on the property is not a peace officer but has the powers of arrest and search and seizure as to any offense under the laws of this state.
- Border Patrol Agent of the United States Customs and Border Protection or an immigration enforcement agent or deportation officer of the Department of Homeland Security is not a peace officer under the laws of this state but, on the premises of a port facility designated by the commissioner of the United States Customs and Border Protection as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic check point, has the authority to detain a person pending transfer without unnecessary delay to a peace officer if the agent or officer has probable cause to believe that the person has engaged in conduct that is a violation of Section 49.02, 49.04, 49.07, or 49.08, Penal Code, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding.
- (d) A commissioned law enforcement officer of the National Park Service is not a peace officer under the laws of this state, except that the officer has the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the boundaries of a national park or national recreation area. In this subsection, "national park or national recreation area" means a national park or national recreation area included in the National Park System as defined by 16 U.S.C. Section 1c(a).
- as defined by 16 U.S.C. Section 1c(a).

 (e) A Special Agent or Law Enforcement Officer of the United States Forest Service is not a peace officer under the laws of this state, except that the agent or officer has the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the National Forest System. In this subsection, "National Forest System" has the meaning assigned by 16 U.S.C. Section 1609.
- (f) Security personnel working at a commercial nuclear power plant, including contract security personnel, trained and qualified under a security plan approved by the United States Nuclear Regulatory Commission, are not peace officers under the laws of this state, except that such personnel have the powers of arrest, search, and seizure, including the powers under Section 9.51, Penal Code, while in the performance of their duties on the premises of a commercial nuclear power plant site or under agreements entered into with local law enforcement regarding areas surrounding the plant site.

 (g) In addition to the powers of arrest, search,
- (g) In addition to the powers of arrest, search, and seizure under Subsection (a), a Special Agent of the Secret Service protecting a person described by 18 U.S.C. Section 3056(a) or investigating a threat

against a person described by 18 U.S.C. Section 3056(a) has the powers of arrest, search, and seizure

(1)

5

6

7

8

9

10

11

12

13

14

15

16

17

misdemeanor offenses under the laws of this state; and (2) any criminal offense under federal law.

Revisor's Note

Article 2.122(d), Code of Criminal Procedure, defines "national park or national recreation area" as a national park or national recreation area included in the National Park System as defined by "16 U.S.C. Section 1c(a)." The revised law substitutes reference to 54 U.S.C. Section 100102 because Pub. L. No. 113-287 repealed 16 U.S.C. Section 1c(a) and enacted 54 U.S.C. Section 100102, which contains the substance of the referenced definition.

18 Revised Law

- Art. 2A.003. PEACE OFFICERS COMMISSIONED BY TRIBAL COUNCIL. 19
- 20 The tribal council of the Alabama-Coushatta Tribe of Texas or
- 21 of the Kickapoo Traditional Tribe of Texas may employ and
- within 22 commission peace officers to enforce state law the
- 23 respective tribe's reservation.
- 24 A peace officer commissioned under this article has all
- 25 the powers, privileges, and immunities of a peace officer and may:
- within the tribe's reservation: 26 (1)
- 27 (A) arrest without a warrant in accordance with
- Chapter 14 any person who violates a law of the state; and 28
- 29 (B) enforce all traffic laws on streets and
- 30 highways; and
- 31 outside the tribe's reservation, arrest any person
- who violates any law of the state if the officer: 32
- 33 is summoned by another law enforcement agency (A)
- 34 to provide assistance; or
- is assisting another law enforcement agency. 35
- 36 A peace officer commissioned under this article is not
- entitled to state benefits normally provided by the state to a peace 37

- 1 officer.
- 2 (d) A peace officer commissioned under this article must
- 3 meet:
- 4 (1) the minimum standards required of peace officers
- 5 by the Texas Commission on Law Enforcement relating to competence,
- 6 reliability, education, training, morality, and physical and
- 7 mental health; and
- 8 (2) all standards for licensing as a peace officer by
- 9 the Texas Commission on Law Enforcement.
- 10 (e) A peace officer commissioned under this article and
- 11 assigned to duty shall:
- 12 (1) take and file the oath required of a peace officer;
- 13 and

24

252627

28

29

30 31

32

33

34

35

36 37 38

39

40 41

42

43

44 45

- 14 (2) execute and file a good and sufficient bond in the
- 15 sum of \$1,000, payable to the governor, with two or more good and
- 16 sufficient sureties, conditioned that the officer will fairly,
- 17 impartially, and faithfully perform the officer's duties as may be
- 18 required by law.
- 19 (f) The bond required under Subsection (e)(2) may be sued on
- 20 in the name of the person injured until the whole amount is
- 21 recovered. (Code Crim. Proc., Art. 2.126.)

22 <u>Source Law</u>

- Art. 2.126. PEACE OFFICERS COMMISSIONED BY THE ALABAMA-COUSHATTA TRIBE OF TEXAS AND THE KICKAPOO TRADITIONAL TRIBE OF TEXAS. (a) The tribal council of the Alabama-Coushatta Tribe of Texas or the tribal council of the Kickapoo Traditional Tribe of Texas is authorized to employ and commission peace officers for the purpose of enforcing state law within the boundaries of the tribe's reservation.
- (b) Within the boundaries of the tribe's reservation, a peace officer commissioned under this article:
- (1) is vested with all the powers, privileges, and immunities of peace officers;
- (2) may, in accordance with Chapter 14, arrest without a warrant any person who violates a law of the state; and
- (3) may enforce all traffic laws on streets and highways.
- (c) Outside the boundaries of the tribe's reservation, a peace officer commissioned under this article is vested with all the powers, privileges, and immunities of peace officers and may arrest any person who violates any law of the state if the peace officer:

- (1) is summoned by another law enforcement agency to provide assistance; or
- (2) is assisting another law enforcement agency.
- (d) Any officer assigned to duty and commissioned under this article shall take and file the oath required of peace officers and shall execute and file a good and sufficient bond in the sum of \$1,000, payable to the governor, with two or more good and sufficient sureties, conditioned that the officer will fairly, impartially, and faithfully perform the duties as may be required of the officer by law. The bond may be sued on from time to time in the name of the person injured until the whole amount is recovered.
- (e) Any person commissioned under this article must:
- (1) meet the minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health; and
- (2) meet all standards for certification as a peace officer by the Texas Commission on Law Enforcement.
- (f) A peace officer commissioned under this article is not entitled to state benefits normally provided by the state to a peace officer.

Revisor's Note

- (1) Article 2.126(a), Code of Criminal Procedure, provides that certain tribal councils "[are] authorized to" employ and commission peace officers for certain purposes. Throughout this chapter, the revised law substitutes "may" for the quoted language because that term is more concise and is the substantive equivalent of the quoted language.
- (2) Article 2.126(b)(1), Code of Criminal Procedure, provides that a peace officer commissioned under that article "is vested with" certain powers. The revised law substitutes "has" for the quoted language because the act of commissioning a peace officer vests certain powers, privileges, and immunities in the officer and, once vested, the officer has those powers, privileges, and immunities.
- (3) Article 2.126(d), Code of Criminal Procedure, provides that a certain bond may be sued on "from time to time." The revised law omits "from time to time" because the power to take an action includes the power to act at any time.

2.8

- (4) Article 2.126(e), Code of Criminal Procedure, refers to "[a]ny person commissioned under this article." The revised law substitutes "peace officer" for the reference to "any person" to provide consistency in phrasing and because it is clear from the context that the law is referring to a peace officer commissioned under that article.
- Article 2.126(e), Code of Criminal Procedure, provides that a person commissioned under that article must meet the minimum standards required of peace officers by the "commission" relating to competence, reliability, education, training, morality, and physical and mental health as well as all standards for "certification" as a peace officer by the Texas Commission on Law Enforcement. Section 1701.151, Occupations Code, authorizes the Texas Commission on Law Enforcement to set relating to competence and reliability, including education, training, physical, mental, and moral standards, for licensing as a peace officer. Therefore, it is clear from the context that the "commission" requiring these standards is the Texas Commission on Law Enforcement. Additionally, throughout this chapter, the revised law substitutes "licensing" for "certification" because the former is more consistent with the terminology used in Chapter 1701, Occupations Code, which regulates the licensing of peace officers.

29 <u>Revised Law</u>

Art. 2A.004. PEACE OFFICERS FROM ADJOINING STATES. (a) A commissioned peace officer of a state adjoining this state, while the officer is in this state, has the same powers, duties, and immunities as a peace officer of this state who is acting in the discharge of an official duty, but:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

- 1 (1) only:
- 2 during a time in which the officer has
- 3 physical custody of an inmate or criminal defendant and is:
- 4 (i) transporting the inmate or defendant
- from a county in the adjoining state that is on the border between 5
- the two states to a hospital or other medical facility in a county 6
- 7 in this state that is on the border between the two states; or
- 8 (ii) returning the inmate or defendant from
- the hospital or facility described by Subparagraph (i) to the 9
- county in the adjoining state from which the inmate or defendant was 10
- transported under that subparagraph; and 11
- 12 (B) to the extent necessary to:
- (i) maintain physical custody of an inmate 13
- or criminal defendant while transporting the inmate or defendant; 14
- 15 οr
- regain physical custody of an inmate 16 (ii)
- 17 or criminal defendant if the inmate or defendant escapes while
- being transported; or 18
- 19 (2) only while the officer is:
- in a municipality some part of the municipal 20
- limits of which are within one mile of the boundary between this 21
- 22 state and the adjoining state; and
- 23 regularly assigned to duty in a county,
- 24 parish, or municipality that adjoins this state.
- 25 A peace officer described by Subsection (a)(2) may also
- enforce the ordinances of a municipality in this state described by 26
- that subdivision if the governing body of the municipality 27
- authorizes that enforcement by majority vote at an open meeting. 28
- (Code Crim. Proc., Art. 2.124.) 29
- 30 Source Law
- 31 Art. 2.124. PEACE OFFICERS FROM ADJOINING
- STATES. (a) A commissioned peace officer of a state of the United States of America adjoining this state, 32
- 33
- 34 while the officer is in this state, has under this 35
- subsection the same powers, duties, and immunities as a peace officer of this state who is acting in the 36
- 37 discharge of an official duty, but only:

(1) during a time in which:

(A) the peace officer from the adjoining state has physical custody of an inmate or criminal defendant and is transporting the inmate or defendant from a county in the adjoining state that is on the border between the two states to a hospital or other medical facility in a county in this state that is on the border between the two states; or

(B) the peace officer has physical custody of the inmate or defendant and is returning the inmate or defendant from the hospital or facility to the county in the adjoining state; and

(2) to the extent necessary to:

(A) maintain physical custody of the inmate or defendant while transporting the inmate or defendant; or

(B) regain physical custody of the inmate or defendant if the inmate or defendant escapes

while being transported.

1

3

5 6 7

8

9

10

11 12

13

14

15

16

17

18

19

20

21 22

23

24 25

26

27

28 29 30

31 32

33

34 35

36

37

38

39

40

41

42

43

44

45

46

47

48

49

50

51

52

A commissioned peace officer of a state of (b) the United States of America adjoining this state, while the officer is in this state, has under this subsection the same powers, duties, and immunities as a peace officer of this state who is acting in the discharge of an official duty, but only in a municipality some part of the municipal limits of which are within one mile of the boundary between this state and the adjoining state and only at a time the peace officer is regularly assigned to duty in a county, parish, or municipality that adjoins this state. A peace officer described by this subsection may also as part of the officer's powers in this state the ordinances of a Texas municipality enforce described by this subsection but only after the governing body of the municipality authorizes that enforcement by majority vote at an open meeting.

Revisor's Note

Article 2.124(a), Code of Criminal Procedure, refers to "a state of the United States of America." The revised law omits "of the United States of America" Section 311.005(7), unnecessary because under as Government Code (Code Construction Act), a reference to a "state" includes any state of the United States. The Code Construction Act is applicable to the revised law and any other provision of the Code of Criminal Procedure enacted under Section 43, Article III, Texas Constitution (authorizing the continuing statutory revision program), in the same manner as to an entire code enacted under the continuing statutory revision program, except as otherwise expressly provided by the Code of Criminal Procedure. See Section 6.02(a), Chapter 1058 (H.B. 2931), of the 85th Acts

- 1 Legislature, Regular Session, 2017.
- 2 Revised Law
- 3 Art. 2A.005. RAILROAD PEACE OFFICERS. (a) In this article:
- 4 (1) "Commission" means the Texas Commission on Law
- 5 Enforcement.
- 6 (2) "Department" means the Department of Public Safety
- 7 of the State of Texas.
- 8 (b) The director of the department may appoint not more than
- 9 250 railroad peace officers employed by a railroad company to aid
- 10 law enforcement agencies in the protection of railroad property and
- 11 the persons and property of railroad passengers and employees.
- 12 (c) Except as provided by Subsection (d), a railroad peace
- 13 officer may make arrests and exercise all authority given peace
- 14 officers under this code when necessary to:
- 15 (1) prevent or abate the commission of an offense
- 16 involving:
- 17 (A) injury to passengers or employees of the
- 18 railroad; or
- 19 (B) damage to railroad property; or
- 20 (2) protect railroad property or property in the
- 21 custody or control of the railroad.
- 22 (d) A railroad peace officer may not issue a traffic
- 23 citation for a violation of Chapter 521, Transportation Code, or
- 24 Subtitle C, Title 7, Transportation Code.
- 25 (e) A railroad peace officer is not entitled to state
- 26 benefits normally provided by the state to a peace officer.
- 27 (f) A person may not serve as a railroad peace officer for a
- 28 railroad company unless:
- 29 (1) the Texas Railroad Association submits the
- 30 person's application for appointment and licensing as a railroad
- 31 peace officer to the director of the department and to the executive
- 32 director of the commission;
- 33 (2) the director of the department issues the person a
- 34 certificate of authority to act as a railroad peace officer;

- 1 (3) the executive director of the commission:
- 2 (A) determines that the person meets minimum
- 3 standards required of peace officers by the commission relating to
- 4 competence, reliability, education, training, morality, and
- 5 physical and mental health; and
- 6 (B) issues the person a license as a railroad
- 7 peace officer; and
- 8 (4) the person has met all standards for licensing as a
- 9 peace officer by the commission.
- 10 (g) For good cause, the director of the department may
- 11 revoke a certificate of authority issued under this article and the
- 12 executive director of the commission may revoke a license issued
- 13 under this article.
- 14 (h) Termination of employment with a railroad company, or
- 15 the revocation of a railroad peace officer license, constitutes an
- 16 automatic revocation of a certificate of authority to act as a
- 17 railroad peace officer.
- 18 (i) A railroad company is liable for any act or omission by a
- 19 person serving as a railroad peace officer for the company that
- 20 occurs within the scope of the person's employment.
- 21 (j) The state or any political subdivision or agency of the
- 22 state is not liable for any act or omission by a person appointed as
- 23 a railroad peace officer.
- 24 (k) A railroad company that employs a railroad peace officer
- 25 shall pay all expenses associated with granting or revoking the
- 26 certificate of authority to act as a railroad peace officer.
- 27 (1) A railroad peace officer who is a member of a railroad
- 28 craft may not perform the duties of a member of any other railroad
- 29 craft during a strike or labor dispute.
- 30 (m) The director of the department and the executive
- 31 director of the commission may adopt rules necessary for the
- 32 effective administration and performance of the duties delegated to
- 33 the director and the executive director by this article. (Code
- 34 Crim. Proc., Art. 2.121; New.)

Art. 2.121. RAILROAD PEACE OFFICERS. (a) The director of the Department of Public Safety may appoint up to 250 railroad peace officers who are employed by a railroad company to aid law enforcement agencies in the protection of railroad property and the protection of the persons and property of railroad passengers and employees.

(b) Except as provided by Subsection (c) of this article, a railroad peace officer may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving injury to passengers and employees of the railroad or damage to railroad property or to protect railroad property or property in the custody or control of the railroad.

(c) A railroad peace officer may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.

(d) A railroad peace officer is not entitled to state benefits normally provided by the state to a peace officer.

(e) A person may not serve as a railroad peace officer for a railroad company unless:

(1) the Texas Railroad Association submits the person's application for appointment and certification as a railroad peace officer to the director of the Department of Public Safety and to the executive director of the Texas Commission on Law Enforcement;

(2) the director of the department issues the person a certificate of authority to act as a railroad peace officer; and

(3) the executive director of the commission determines that the person meets minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health and issues the person a license as a railroad peace officer; and

(4) the person has met all standards for certification as a peace officer by the Texas Commission on Law Enforcement.

(f) For good cause, the director of the department may revoke a certificate of authority issued under this article and the executive director of the commission may revoke a license issued under this article. Termination of employment with a railroad company, or the revocation of a railroad peace officer license, shall constitute an automatic revocation of a certificate of authority to act as a railroad peace officer.

(g) A railroad company is liable for any act or omission by a person serving as a railroad peace officer for the company that is within the person's scope of employment. Neither the state nor any political subdivision or agency of the state shall be liable for any act or omission by a person appointed as a railroad peace officer. All expenses incurred by the granting or revocation of a certificate of authority to act as a railroad peace officer shall be paid by the employing railroad company.

(h) A railroad peace officer who is a member of a railroad craft may not perform the duties of a member of any other railroad craft during a strike or labor

1 dispute.

2

3

4 5 6

7

8

9

10

11

12

(i) The director of the department and the executive director of the commission shall have the authority to promulgate rules necessary for the effective administration and performance of the duties and responsibilities delegated to them by this article.

Revisor's Note

- (1) The definitions of "commission" and "department" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.
- 2.121(i), 13 (2) Article Code of Procedure, provides that certain state officials 14 "shall have the authority to promulgate" rules 15 necessary for the effective administration 16 and the "duties and responsibilities" 17 performance of 18 delegated to them. The revised law substitutes "may adopt" for "shall have the authority to promulgate" 19 20 because, in context, the phrases are synonymous and "may adopt" is more consistent with modern usage. 21 22 Additionally, the revised law omits "responsibilities" 23 because, in 24 "responsibilities" is included in the meaning of 25 "duties."

26 <u>Revised Law</u>

- 27 Art. 2A.006. SPECIAL RANGERS OF TEXAS AND SOUTHWESTERN
- 28 CATTLE RAISERS ASSOCIATION. (a) In this article:
- 29 (1) "Association" means the Texas and Southwestern
- 30 Cattle Raisers Association.
- 31 (2) "Commission" means the Texas Commission on Law
- 32 Enforcement.
- 33 "Department" means the Department of Public Safety
- 34 of the State of Texas.
- 35 (b) The director of the department may appoint not more than
- 36 50 special rangers employed by the association to aid law
- 37 enforcement agencies in the investigation of the theft of livestock

- 1 or related property.
- 2 (c) Except as provided by Subsection (d), a special ranger
- 3 may make arrests and exercise all authority given peace officers
- 4 under this code when necessary to prevent or abate the commission of
- 5 an offense involving livestock or related property.
- 6 (d) A special ranger may not issue a traffic citation for a
- 7 violation of Chapter 521, Transportation Code, or Subtitle C, Title
- 8 7, Transportation Code.
- 9 (e) A special ranger is not entitled to state benefits
- 10 normally provided by the state to a peace officer.
- 11 (f) A person may not serve as a special ranger unless:
- 12 (1) the association submits the person's application
- 13 for appointment and licensing as a special ranger to the director of
- 14 the department and to the executive director of the commission;
- 15 (2) the director of the department issues the person a
- 16 certificate of authority to act as a special ranger;
- 17 (3) the executive director of the commission:
- 18 (A) determines that the person meets minimum
- 19 standards required of peace officers by the commission relating to
- 20 competence, reliability, education, training, morality, and
- 21 physical and mental health; and
- 22 (B) issues the person a license as a special
- 23 ranger; and
- 24 (4) the person has met all standards for licensing as a
- 25 peace officer by the commission.
- 26 (g) For good cause, the director of the department may
- 27 revoke a certificate of authority issued under this article and the
- 28 executive director of the commission may revoke a license issued
- 29 under this article.
- 30 (h) Termination of employment with the association, or the
- 31 revocation of a special ranger license, constitutes an automatic
- 32 revocation of a certificate of authority to act as a special ranger.
- 33 (i) The association is liable for any act or omission by a
- 34 person serving as a special ranger for the association that occurs

- 1 within the scope of the person's employment.
- 2 (j) The state or any political subdivision or agency of the
- 3 state is not liable for any act or omission by a person appointed as
- 4 a special ranger.
- 5 (k) The association shall pay all expenses associated with
- 6 granting or revoking a certificate of authority to act as a special
- 7 ranger.

15

16

17 18

19

20

21

22

23

24

25

26

27

28

29

30 31 32

33

34

35 36

37 38

39

40

41

42

43

44

45 46

47

52 53

54

- 8 (1) The director of the department and the executive
- 9 director of the commission may adopt rules necessary for the
- 10 effective administration and performance of the duties delegated to
- 11 the director and the executive director by this article. (Code
- 12 Crim. Proc., Art. 2.125; New.)

13 <u>Source Law</u>

- RANGERS SPECIAL Art. 2.125. OF TEXAS AND SOUTHWESTERN CATTLE RAISERS ASSOCIATION. (a) Safety the Department of Public director of may appoint up to 50 special rangers who are employed by the Texas and Southwestern Cattle Raisers Association to aid law enforcement agencies in the investigation of the theft of livestock or related property.
- (b) Except as provided by Subsection (c) of this article, a special ranger may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving livestock or related property.
- (c) A special ranger may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.
- (d) A special ranger is not entitled to state benefits normally provided by the state to a peace officer.
- (e) A person may not serve as a special ranger unless:
- (1) the Texas and Southwestern Cattle Raisers Association submits the person's application for appointment and certification as a special ranger to the director of the Department of Public Safety and to the executive director of the Texas Commission on Law Enforcement;
- (2) the director of the department issues the person a certificate of authority to act as a special ranger;
- (3) the executive director of the commission determines that the person meets minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health and issues the person a license as a special ranger; and

 (4) the person has met all standards for
- (4) the person has met all standards for certification as a peace officer by the Texas Commission on Law Enforcement.
- (f) For good cause, the director of the department may revoke a certificate of authority

issued under this article and the executive director of the commission may revoke a license issued under this article. Termination of employment with the association, or the revocation of a special ranger license, shall constitute an automatic revocation of a certificate of authority to act as a special ranger.

(g) The Texas and Southwestern Cattle Raisers Association is liable for any act or omission by a person serving as a special ranger for the association that is within the person's scope of employment. Neither the state nor any political subdivision or agency of the state shall be liable for any act or omission by a person appointed as a special ranger. All expenses incurred by the granting or revocation of a certificate of authority to act as a special ranger shall be paid by the association.

(h) The director of the department and the executive director of the commission shall have the authority to promulgate rules necessary for the effective administration and performance of the duties and responsibilities delegated to them by this

article.

1

2

3

5 6 7

8

9

14 15 16

17

18

19

20

21

22

23

24

2.5

26

27

28

29

30

31

32

33

34

35

36

37

Revisor's Note

- (1) The definitions of "association," "commission," and "department" are added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definitions.
- (2) 2.125(h), of Article Code Procedure, provides that certain state officials "shall have the authority to promulgate" necessary for the effective administration and performance of the "duties and responsibilities" delegated to them. The revised law substitutes "may adopt" for "shall have the authority to promulgate" and omits "responsibilities" for the reasons stated in Revisor's Note (2) to Article 2A.005.

38 Revised Law

Art. 2A.007. ADJUNCT POLICE OFFICERS. (a) With the consent of the governing board of a private institution of higher education located in a county with a population of less than 200,000, the chief of police of a municipality in that county or the sheriff of that county, if the institution is outside the corporate limits of a municipality, that has jurisdiction over the geographical area of the institution may appoint not more than 50 peace officers

- 1 commissioned under Section 51.212, Education Code, and employed by
- 2 the institution to serve as adjunct police officers of the
- 3 municipality or county, as applicable.
- 4 (b) An adjunct police officer appointed under this article:
- 5 (1) shall aid law enforcement agencies in the
- 6 protection of the municipality or county in the geographical area
- 7 designated under Subsection (c);
- 8 (2) may make arrests and exercise all authority given
- 9 peace officers under this code only within the geographical area
- 10 designated under Subsection (c); and
- 11 (3) has all the rights, privileges, and immunities of
- 12 a peace officer but is not entitled to state compensation and
- 13 retirement benefits normally provided by the state to a peace
- 14 officer.
- 15 (c) A chief of police or sheriff who appoints an adjunct
- 16 police officer under this article and the private institution of
- 17 higher education at which the officer is employed shall annually
- 18 designate by agreement the geographical area in which adjunct
- 19 police officers may act as described by Subsection (b). The
- 20 geographical area may include only the institution's campus area
- 21 and an area that:
- 22 (1) is adjacent to the institution's campus;
- 23 (2) does not extend more than one mile from the
- 24 perimeter of the institution's campus; and
- 25 (3) is inhabited primarily by students or employees of
- 26 the institution.
- 27 (d) A person may not serve as an adjunct police officer for a
- 28 municipality or county unless:
- 29 (1) the private institution of higher education at
- 30 which the person is employed submits the person's application for
- 31 appointment and certification as an adjunct police officer to the
- 32 applicable chief of police or sheriff;
- 33 (2) the chief of police or sheriff to whom the
- 34 application under Subdivision (1) was made issues the person a

- 1 certificate of authority to act as an adjunct police officer; and
- 2 (3) the person undergoes any additional training
- 3 required for that person to meet the training standards of the
- 4 municipality or county, as applicable, for peace officers employed
- 5 by the municipality or county.
- 6 (e) A chief of police or sheriff who issues a certificate of
- 7 authority under this article may revoke the certificate for good
- 8 cause.
- 9 (f) A private institution of higher education is liable for
- 10 any act or omission by a person employed by the institution while
- 11 serving as an adjunct police officer outside of the institution's
- 12 campus in the same manner as the municipality or county governing
- 13 the applicable geographical area is liable for any act or omission
- 14 of a peace officer employed by the municipality or county. This
- 15 subsection may not be construed as a limitation on the liability of
- 16 a municipality or county for the acts or omissions of a person
- 17 serving as an adjunct police officer.
- 18 (g) A private institution of higher education that employs
- 19 an adjunct police officer shall pay all expenses incurred by the
- 20 municipality or county in granting or revoking a certificate of
- 21 authority to act as an adjunct police officer under this article.
- (h) This article does not affect any duty of the
- 23 municipality or county to provide law enforcement services to a
- 24 geographical area designated under Subsection (c). (Code Crim.
- 25 Proc., Art. 2.123.)

28 29

30

31

36 37

38

39

40

41

26 Source Law

Art. 2.123. ADJUNCT POLICE OFFICERS. Within counties under 200,000 population, the chief of police of a municipality or the sheriff of the county, if the institution is outside the corporate limits of a municipality, jurisdiction that has over geographical area of a private institution of higher education, provided the governing board of such institution consents, may appoint up to 50 peace officers who are commissioned under Section 51.212, Education Code, and who are employed by a private institution of higher education located or county, to serve as adjunct police municipality the municipality or county. Officers officers of appointed under this article shall aid law enforcement agencies in the protection of the municipality

county in a geographical area that is designated by agreement on an annual basis between the appointing chief of police or the sheriff and institution.

- (b) The geographical area that is subject to designation under Subsection (a) of this article may include only the private institution's campus area and an area that:
- (1)is adjacent to the campus of the private institution;
- further (2) does not extend than distance of one mile from the perimeter of the campus of the private institution; and
- (3) is inhabited primarily by students or employees of the private institution.
- (c) A peace officer serving as an adjunct police officer may make arrests and exercise all authority given peace officers under this code only within the geographical area designated by agreement between the appointing chief of police or sheriff and the private institution.
- (d) A peace officer serving as an adjunct police officer has all the rights, privileges, and immunities of a peace officer but is not entitled to state compensation and retirement benefits normally provided by the state to a peace officer.
 - (e) A person may not serve as an adjunct police

- officer for a municipality or county unless:
 (1) the institution of higher education submits the person's application for appointment and certification as an adjunct police officer to the chief of police of the municipality or, if outside a municipality, the sheriff of the county that has the geographical area of jurisdiction over institution;
- (2) the chief of police municipality or sheriff of the county to whom the application was made issues the person a certificate of authority to act as an adjunct police officer; and
- (3) the person undergoes any additional training required for that person to meet the training standards of the municipality or county for peace officers employed by the municipality or county.
- (f) For good cause, the chief of police or sheriff may revoke a certificate of authority issued under this article.
- (g) A private institution of higher education is liable for any act or omission by a person while serving as an adjunct police officer outside of the campus of the institution in the same manner as the municipality or county governing that geographical area is liable for any act or omission of a peace officer employed by the municipality or county. This subsection shall not be construed to act as a limitation on the liability of a municipality or county for the acts or omissions of a person serving as an adjunct police officer.
- (h) The employing institution shall pay all expenses incurred by the municipality or county in granting or revoking a certificate of authority to act as an adjunct police officer under this article.
- (i) This article does not affect any duty of the municipality or county to provide law enforcement services to a geographical area designated under Subsection (a) of this article.

- 1 Revised Law
- 2 Art. 2A.008. SCHOOL MARSHALS. (a) In this article,
- 3 "private school" means a school that:
- 4 (1) offers a course of instruction for students in one
- 5 or more grades from prekindergarten through grade 12;
- 6 (2) is not operated by a governmental entity; and
- 7 (3) is not a school whose students are home-schooled
- 8 students as defined by Section 29.916, Education Code.
- 9 (b) A person may not serve as a school marshal unless the
- 10 person is:
- 11 (1) licensed under Section 1701.260, Occupations
- 12 Code; and
- 13 (2) appointed by:
- 14 (A) the board of trustees of a school district or
- 15 the governing body of an open-enrollment charter school under
- 16 Section 37.0811, Education Code;
- 17 (B) the governing body of a private school under
- 18 Section 37.0813, Education Code; or
- 19 (C) the governing board of a public junior
- 20 college under Section 51.220, Education Code.
- 21 (c) Except as provided by Subsection (d), a school marshal
- 22 may:
- 23 (1) make arrests and exercise all authority given
- 24 peace officers under this code, subject to written regulations
- 25 adopted by, as applicable:
- 26 (A) the board of trustees of a school district or
- 27 the governing body of an open-enrollment charter school under
- 28 Section 37.0811, Education Code;
- 29 (B) the governing body of a private school under
- 30 Section 37.0813, Education Code; or
- 31 (C) the governing board of a public junior
- 32 college under Section 51.220, Education Code; and
- 33 (2) act only as necessary to prevent or abate the
- 34 commission of an offense that threatens serious bodily injury to or

- the death of a student, faculty member, or visitor on school
- 2 premises.

11 12

13 14 15

16 17

18

19 20

21 22

27

28

29 30 31

32

33

34

35

36

37

38

39

40 41

42

43

44

45

46

47

48

49

50

51

52

53 54 55

56

- 3 A school marshal may not issue a traffic citation for a
- 4 violation of Chapter 521, Transportation Code, or Subtitle C, Title
- 5 7, Transportation Code.
- 6 (e) A school marshal is not entitled to state benefits
- 7 normally provided by the state to a peace officer. (Code Crim.
- 8 Proc., Art. 2.127.)

9 Source Law

- Art. 2.127. SCHOOL MARSHALS. (a) Exceprovided by Subsection (b), a school marshal may: $\frac{1}{2}$ Except as
 - (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;
- (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.
- In this section, "private school" means a (a-1)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
- is not a school whose students meet the definition provided bу Section 29.916(a)(1), Education Code.
- (b) A school marshal may not issue a traffic a violation of Chapter 521, for citation Subtitle Code, Title Transportation or С, 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.
 - SUBCHAPTER B. POWERS AND DUTIES OF PEACE OFFICERS AND LAW

1	ENFORCEMENT AGENCIES
2	Revised Law
3	Art. 2A.051. GENERAL POWERS AND DUTIES OF PEACE OFFICERS.
4	Each peace officer shall:
5	(1) preserve the peace within the officer's
6	jurisdiction using all lawful means;
7	(2) in every case authorized by this code, interfere
8	without a warrant to prevent or suppress crime;
9	(3) execute all lawful process issued to the officer
10	by a magistrate or court;
11	(4) give notice to an appropriate magistrate of all
12	offenses committed in the officer's jurisdiction, where the officer
13	has good reason to believe there has been a violation of the penal
14	law;
15	(5) when authorized by law, arrest an offender without
16	a warrant so the offender may be taken before the proper magistrate
17	or court and be tried;
18	(6) take possession of a child under Article
19	63.009(g); and
20	(7) on a request made by the Texas Civil Commitment
21	Office, execute an emergency detention order issued by that office
22	under Section 841.0837, Health and Safety Code. (Code Crim. Proc.,
23	Arts. 2.13(a), (b), (c), (f).)
24	Source Law
25 26 27 28 30 31 32 33 34 35 36 37 38 40 41 42	Art. 2.13. DUTIES AND POWERS. (a) It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means. (b) The officer shall: (1) in every case authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime; (2) execute all lawful process issued to the officer by any magistrate or court; (3) give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and (4) arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.
43	(c) It is the duty of every officer to take

- possession of a child under Article 63.009(g).
- 2 (f) On a request made by that office, a peace 3 officer shall execute an emergency detention order 4 issued by the Texas Civil Commitment Office under 5 Section 841.0837, Health and Safety Code.

6 Revised Law

- 7 Art. 2A.052. CARRYING WEAPON ON CERTAIN PREMISES; CIVIL
- 8 PENALTY. (a) In this article:
- 9 (1) "Establishment serving the public" means:
- 10 (A) a hotel, motel, or other place of lodging;
- 11 (B) a restaurant or other place where food is
- 12 offered for sale to the public;
- (C) a retail business or other commercial
- 14 establishment or an office building to which the public is invited;
- 15 (D) a sports venue; and
- 16 (E) any other place of public accommodation,
- 17 amusement, convenience, or resort to which the public or any
- 18 classification of persons from the public is regularly, normally,
- 19 or customarily invited.
- 20 (2) "Sports venue" means an arena, coliseum, stadium,
- 21 or other type of area or facility that is primarily used or is
- 22 planned for primary use for professional or amateur sports or
- 23 athletics events and for which a fee is charged or is planned to be
- 24 charged for admission to the sports or athletics events, other than
- 25 occasional civic, charitable, or promotional events.
- 26 (b) An establishment serving the public may not prohibit or
- 27 otherwise restrict a peace officer or special investigator from
- 28 carrying on the establishment's premises a weapon that the officer
- 29 or investigator is otherwise authorized to carry, regardless of
- 30 whether the officer or investigator is engaged in the actual
- 31 discharge of the officer's or investigator's duties while carrying
- 32 the weapon.
- 33 (c) An establishment serving the public that violates this
- 34 article is subject to a civil penalty in the amount of \$1,000 for
- 35 each violation. The attorney general may sue to collect a civil
- 36 penalty under this subsection. Money collected under this

- 1 subsection shall be deposited in the state treasury to the credit of
- 2 the general revenue fund. (Code Crim. Proc., Art. 2.1305.)

Art. 2.1305. CARRYING WEAPON ONCERTAIN PREMISES. (a) An establishment serving the public may not prohibit or otherwise restrict a peace officer or special investigator from carrying establishment's premises a weapon that carrying on investigator otherwise officer or special is authorized to carry, 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.

(b) For purposes of this article:

(1) "Establishment serving the public"

means:

4

5

6

7

8

9

14

15

16

17

18

19

20

21

22

23

24

25

26 27 28

29 30

31 32 33

34 35

36

37

38

39 40 41

42

43 44 (A) a hotel, motel, or other place of

lodging;

(B) a restaurant or other place where food is offered for sale to the public;

(C) a retail business or other commercial establishment or an office building to which the general public is invited;

(D) a sports venue; and

(E) any other place of public accommodation, amusement, convenience, or resort to which the general public or any classification of persons from the general public is regularly, normally, or customarily invited.

(2) "Sports venue" means an arena,

- (2) "Sports venue" means an arena, coliseum, stadium, or other type of area or facility that is primarily used or is planned for primary use for one or more professional or amateur sports or athletics events and for which a fee is charged or is planned to be charged for admission to the sports or athletics events, other than occasional civic, charitable, or promotional events.
- (c) An establishment serving the public that violates this article is subject to a civil penalty in the amount of \$1,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection. Money collected under this subsection shall be deposited in the state treasury to the credit of the general revenue fund.

45 Revised Law

- Art. 2A.053. SUMMONING AID. (a) A peace officer who meets resistance while discharging a duty imposed on the officer by law shall summon a number of residents of the officer's county
- 49 sufficient to overcome that resistance.
- 50 (b) A person summoned by a peace officer under Subsection
- 51 (a) shall obey the officer. (Code Crim. Proc., Art. 2.14.)

52 Source Law

Art. 2.14. MAY SUMMON AID. Whenever a peace officer meets with resistance in discharging any duty imposed upon him by law, he shall summon a sufficient

number of citizens of his county to overcome the resistance; and all persons summoned are bound to obey.

Revisor's Note

Article 2.14, Code of Criminal Procedure, refers to "citizens" of a peace officer's county. The revised law substitutes "residents" for "citizens" because a person is not considered to be a citizen of a county and it is clear from the context of that article that a peace officer may summon a person who resides in the county for assistance.

Revised Law

Art. 2A.054. REFUSAL TO ASSIST PEACE OFFICER. A peace officer who summons a person to assist the peace officer in performing any duty shall, if the person refuses, report the person to the proper district or county attorney for prosecution. (Code Crim. Proc., Art. 2.15.)

18 Source Law

1 2 3

4

5

6

7

8

9

10

11

12

25

Art. 2.15. PERSON REFUSING TO AID. The peace officer who has summoned any person to assist him in performing any duty shall report such person, if he refuse to obey, to the proper district or county attorney, in order that he may be prosecuted for the offense.

<u>Revisor's Note</u>

Article 2.15, Code of Criminal Procedure, refers
to a person being "prosecuted for the offense." The
revised law omits "for the offense" as unnecessary in
this context because it does not add to the clear
meaning of the law.

31 Revised Law

- Art. 2A.055. FINE FOR FAILURE TO EXECUTE PROCESS. (a) A sheriff or other officer who wilfully refuses or neglects to execute any summons, subpoena, or attachment for a witness or any other legal process the officer has a duty to execute is liable for a fine for contempt in an amount in the court's discretion of not less than \$10 or more than \$200.
- 38 (b) The payment of a fine under Subsection (a) shall be

- 1 enforced in the same manner as a fine for contempt in a civil case.
- 2 (Code Crim. Proc., Art. 2.16.)

Art. 2.16. NEGLECTING TO EXECUTE PROCESS. If any sheriff or other officer shall wilfully refuse or fail from neglect to execute any summons, subpoena or attachment for a witness, or any other legal process which it is made his duty by law to execute, he shall be liable to a fine for contempt not less than ten nor more than two hundred dollars, at the discretion of the court. The payment of such fine shall be enforced in the same manner as fines for contempt in civil cases.

13 Revised Law

- 14 Art. 2A.056. RESPONSE TO CHILD SAFETY CHECK ALERT. (a) In
- 15 this article, "department" means the Department of Family and
- 16 Protective Services.
- 17 (b) A peace officer who locates a child or other person
- 18 listed on the Texas Crime Information Center's child safety check
- 19 alert list established under Section 261.3022, Family Code, shall:
- 20 (1) immediately contact the department on the
- 21 department's dedicated law-enforcement telephone number for
- 22 statewide intake;
- 23 (2) request information from the department regarding
- 24 the circumstances of the case involving the child or other person;
- 25 and

4

5 6 7

8

9

10 11

- 26 (3) request information from the child and the other
- 27 person regarding the child's safety, well-being, and current
- 28 residence.
- 29 (c) The peace officer may temporarily detain the child or
- 30 other person to ensure the safety and well-being of the child.
- 31 (d) If the peace officer determines that the circumstances
- 32 described by Section 262.104, Family Code, exist, the officer may
- 33 take temporary possession of the child without a court order as
- 34 provided by that section. If the peace officer does not take
- 35 temporary possession of the child, the officer shall obtain the
- 36 child's current address and any other relevant information and
- 37 report that information to the department.
- 38 (e) A peace officer who locates a child or other person

- 1 listed on the Texas Crime Information Center's child safety check
- 2 alert list and who reports the child's or other person's current
- 3 address and other relevant information to the department shall
- 4 report to the Texas Crime Information Center that the child or other
- 5 person has been located and to whom the child was released, as
- 6 applicable. (Code Crim. Proc., Art. 2.272; New.)

Art. 2.272. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY CHECK ALERT. (a) If a peace officer locates a child or other person listed on the Texas Crime Information Center's child safety check alert list established under Section 261.3022, Family Code, the officer shall:

- (1) immediately contact the Department of Family and Protective Services on the department's dedicated law-enforcement telephone number for statewide intake;
- (2) request information from the department regarding the circumstances of the case involving the child or other person; and
- (3) request information from the child and the other person regarding the child's safety, well-being, and current residence.
- (b) The peace officer may temporarily detain the child or other person to ensure the safety and well-being of the child.
 (c) If the peace officer determines that the
- circumstances described by Section 262.104, Family Code, exist, the officer may take temporary possession of the child without a court order as provided by Section 262.104, Family Code. If the peace officer does not take temporary possession of the child, the officer shall obtain the child's current address and any other relevant information and report that information to the Department of Family and Protective Services.
- (d) A peace officer who locates a child or other person listed on the Texas Crime Information Center's child safety check alert list and who reports the child's or other person's current address and other relevant information to the Department of Family and Protective Services shall report to the Texas Crime Information Center that the child or other person has been located and to whom the child was released, as applicable.

Revisor's Note

The definition of "department" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.

<u>Revised Law</u>

Art. 2A.057. INVESTIGATION OF CERTAIN REPORTS ALLEGING

- 1 ABUSE, NEGLECT, OR EXPLOITATION. (a) In this article,
- 2 "department" means the Department of Family and Protective
- 3 Services.
- 4 (b) A peace officer from the appropriate local law
- 5 enforcement agency shall, on receipt of a report, investigate
- 6 jointly with the department or with the agency responsible for
- 7 conducting an investigation under Subchapter E, Chapter 261, Family
- 8 Code, if the report:
- 9 (1) is assigned the highest priority in accordance
- 10 with rules adopted by the department under Section 261.301(d),
- 11 Family Code; and
- 12 (2) alleges an immediate risk of physical or sexual
- 13 abuse of a child that could result in the death of or serious harm to
- 14 the child by a person responsible for the care, custody, or welfare
- 15 of the child.
- 16 (c) As soon as possible, but not later than 24 hours, after
- 17 being notified by the department of a report described by
- 18 Subsection (b), the peace officer shall accompany the department
- 19 investigator in initially responding to the report.
- 20 (d) On receipt of a report of abuse, neglect, exploitation,
- 21 or other complaint of a resident of a nursing home, convalescent
- 22 home, or other related institution or an assisted living facility,
- 23 under Section 260A.007(c)(1), Health and Safety Code, the
- 24 appropriate local law enforcement agency shall investigate the
- 25 report as required by Section 260A.017, Health and Safety Code.
- 26 (Code Crim. Proc., Arts. 2.27, 2.271; New.)

INVESTIGATION OF Art. 2.27. CERTAIN (a) On receipt of a report that is ALLEGING ABUSE. assigned the highest priority in accordance with rules adopted by the Department of Family and Protective Services under Section 261.301(d), Family Code, and that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child by a person responsible for the care, custody, or welfare of the child, a peace officer from the appropriate local law enforcement agency shall investigate the report jointly with the with responsible department or the agency conducting an investigation under Subchapter

28

29 30

31 32

33 34 35

36 37

38 39

Chapter 261, Family Code. As soon as possible after being notified by the department of the report, but not later than 24 hours after being notified, the peace officer shall accompany the department investigator in initially responding to the report.

(b) On receipt of a report of abuse or neglect or other complaint of a resident of a nursing home, convalescent home, or other related institution under Section 242.126(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 242.135, Health and Safety Code.

Art. 2.271. INVESTIGATION OF CERTAIN REPORTS ALLEGING ABUSE, NEGLECT, OR EXPLOITATION. Notwithstanding Article 2.27, on receipt of a report of abuse, neglect, exploitation, or other complaint of a resident of a nursing home, convalescent home, or other related institution or an assisted living facility, under Section 260A.007(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 260A.017, Health and Safety Code.

Revisor's Note

- (1) The definition of "department" is added to the revised law for drafting convenience and to eliminate frequent, unnecessary repetition of the substance of the definition.
- (2) Article 2.27(b), Code of Criminal Procedure, provides that on receipt of a report of abuse or neglect or other complaint of a resident of a nursing home, convalescent home, or other related institution under Section 242.126(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 242.135 of that code. Chapter 7 (S.B.7), Acts of the 82nd Legislature, 1st Called Session, 2011, repealed Sections 242.126 and 242.135, Health and Safety Code, and enacted the substance of those provisions in Sections 260A.007 and 260A.017, Health and Safety Code, respectively. Chapter 7 also added Article 2.271, Code of Criminal Procedure, which essentially duplicates the provision in Article 2.27(b). The revised law is drafted accordingly.
- (3) Article 2.271, Code of Criminal Procedure, provides that "[n]otwithstanding Article 2.27" of that

1

2

3

8

9

10

11

12

13

14 15

16

17

18

23

24

2.5

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

code, the appropriate local law enforcement agency 1 2 shall investigate certain reports of abuse, neglect, 3 exploitation, or other complaints of a resident of a 4 nursing home, convalescent home, or other related institution or an assisted living facility. 5 revised law omits the quoted language because, for the 6 7 reasons stated in Revisor's Note (2) to this revised article, Article 2.271 does not conflict with Article 8 2.27. 9

10 Revised Law

- 11 Art. 2A.058. RELEASE OF CHILD BY LAW ENFORCEMENT OFFICER.
- 12 (a) A law enforcement officer who takes possession of a child under
- 13 Section 262.104, Family Code, may release the child to:
- 14 (1) a residential child-care facility licensed by the
- 15 Department of Family and Protective Services under Chapter 42,
- 16 Human Resources Code, if the facility is authorized by the
- 17 department to take possession of the child;
- 18 (2) a juvenile probation department;
- 19 (3) the Department of Family and Protective Services;
- 20 or
- 21 (4) any other person authorized by law to take
- 22 possession of the child.
- (b) Before a law enforcement officer may release a child to
- 24 a person authorized by law to take possession of the child other
- 25 than a governmental entity, the officer must:
- 26 (1) verify with the National Crime Information Center
- 27 that the child is not a missing child;
- 28 (2) search the relevant databases of the National
- 29 Crime Information Center system, including those pertaining to
- 30 protection orders, historical protection orders, warrants, sex
- 31 offender registries, and persons on supervised release to:
- 32 (A) verify that the person to whom the child is
- 33 being released:
- 34 (i) does not have a protective order issued

1 against the person; and 2 (ii) is not registered as a sex offender 3 unless the person is the child's parent or guardian and there are no 4 restrictions regarding the person's contact with the child; and 5 (B) obtain any other information the Department 6 of Family and Protective Services considers: 7 (i) relevant to protect the welfare of the 8 child; or (ii) 9 reflective of the responsibility of the person to whom the child is being released; 10 11 (3)call the Department of Family and Protective Services Texas Abuse Hotline to determine whether the person to 12 13 whom the child is being released is listed in the registry as a 14 person who abused or neglected a child; 15 (4) verify that the person to whom the child is being 16 released is at least 18 years of age; and 17 (5) maintain a record regarding the child's placement, including: 18 19 identifying information about the (A) child, 20 including the child's name or pseudonyms; and the name and address of the person to whom the 21 (B) child is being released. (Code Crim. Proc., Art. 2.273.) 22 23 Source Law 24 RELEASE OF CHILD BY LAW ENFORCEMENT Art. 2.273. A law enforcement officer who takes 25 OFFICER. (a) 26 possession of a child under Section 262.104, Family 27 Code, may release the child to: 28 (1)residential child-care facility licensed by the Department of Family and Protective Services under Chapter 42, Human Resources Code, if the facility is authorized by the department to take possession of the child; 29 30 31 32 33 a juvenile probation department; (2) the 34 (3) of Department Family and 35 Protective Services; or 36 (4)any other person authorized by law to 37 take possession of the child. Before a law enforcement officer may release 38 (b) a child to a person authorized by law to take possession of the child other than a governmental 39 40 entity, the officer shall: 41 42 with the (1)verify National 43 Information Center that the child is not a missing 44 child;

1	(2) search the relevant databases of the
2	National Crime Information Center system, including
3	those pertaining to protection orders, historical
4 5 6	protection orders, warrants, sex offender registries,
5	and persons on supervised release to:
6	(A) verify that the person to whom
7	the child is being released:
8	(i) does not have a protective
9	order issued against the person; and
10	(ii) is not registered as a sex
11	offender unless the person is the child's parent or
12	guardian and there are no restrictions regarding the
13	person's contact with the child; and
14	(B) obtain any other information the
15	Department of Family and Protective Services
16	considers:
17	(i) relevant to protect the
18	welfare of the child; or
19	(ii) reflective of the
20	responsibility of the person to whom the child is being
21	released;
22	(3) call the Department of Family and
23	Protective Services Texas Abuse Hotline to determine
24	whether the person to whom the child is being released
25	is listed in the registry as a person who abused or
26	neglected a child;
27	(4) verify that the person to whom the
28	child is being released is at least 18 years of age;
29	and
30	(5) maintain a record regarding the
31	child's placement, including:
32	(A) identifying information about
33	the child, including the child's name or pseudonyms;
34	and
35	(B) the name and address of the

37 Revised Law

person to whom the child is being released.

38 Art. 2A.059. NATIONALITY OR IMMIGRATION STATUS INQUIRY.

- Subject to Subsection (b), in the course of investigating an 39
- alleged criminal offense, a peace officer may inquire as to the 40
- 41 nationality or immigration status of a victim of or witness to the
- offense only if the officer determines that the inquiry is 42
- 43 necessary to:

- 44 (1)investigate the offense; or
- 45 (2) provide the victim or witness with information
- 46 about federal visas designed to protect individuals providing
- assistance to law enforcement. 47
- Subsection (a) does not prevent a peace officer from: 48 (b)
- 49 (1)conducting a separate investigation of any other
- 50 alleged criminal offense; or
- 51 inquiring as to the nationality or immigration
- status of a victim of or witness to a criminal offense if the 52

- 1 officer has probable cause to believe that the victim or witness has
- 2 engaged in specific conduct constituting a separate criminal
- 3 offense. (Code Crim. Proc., Arts. 2.13(d), (e).)

5

6 7

8

9 10

11

12

13

14

15

16

17

18

2.3

24

- (d) Subject to Subsection (e), in the course of investigating an alleged criminal offense, a peace officer may inquire as to the nationality or immigration status of a victim of or witness to the offense only if the officer determines that the inquiry is necessary to:
 - (1) investigate the offense; or
- (2) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.
- (e) Subsection (d) does not prevent a peace officer from:
- (1) conducting a separate investigation of any other alleged criminal offense; or
- (2) inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.

25 <u>Revised Law</u>

- 26 Art. 2A.060. IMMIGRATION DETAINER REQUESTS. (a) A law
- 27 enforcement agency that has custody of a person subject to an
- 28 immigration detainer request issued by United States Immigration
- 29 and Customs Enforcement shall:
- 30 (1) comply with, honor, and fulfill any request made
- 31 in the detainer request provided by the federal government; and
- 32 (2) inform the person that the person is being held
- 33 pursuant to an immigration detainer request issued by United States
- 34 Immigration and Customs Enforcement.
- 35 (b) A law enforcement agency is not required to perform a
- 36 duty imposed by Subsection (a) with respect to a person who has
- 37 provided proof that the person is a citizen of the United States or
- 38 that the person has lawful immigration status in the United States,
- 39 such as a Texas driver's license or similar government-issued
- 40 identification. (Code Crim. Proc., Art. 2.251.)

41 Source Law

Art. 2.251. DUTIES RELATED TO IMMIGRATION

DETAINER REQUESTS. (a) A law enforcement agency that

has custody of a person subject to an immigration

detainer request issued by United States Immigration

1 2 3 4 5 6 7 8 9 10 11 12 13 14	and Customs Enforcement shall: (1) comply with, honor, and fulfill any request made in the detainer request provided by the federal government; and (2) inform the person that the person is being held pursuant to an immigration detainer request issued by United States Immigration and Customs Enforcement. (b) A law enforcement agency is not required to perform a duty imposed by Subsection (a) with respect to a person who has provided proof that the person is a citizen of the United States or that the person has lawful immigration status in the United States, such as a Texas driver's license or similar government-issued identification.
16	Revised Law
17	Art. 2A.061. MISUSED IDENTITY NOTIFICATIONS. On receiving
18	information that a person's identifying information was falsely
19	given by an arrested person as the arrested person's identifying
20	information, the local law enforcement agency responsible for
21	collecting identifying information on arrested persons in the
22	county in which the arrest was made shall:
23	(1) notify the person that:
24	(A) the person's identifying information was
25	misused by another person arrested in the county;
26	(B) the person may file a declaration with the
27	Department of Public Safety under Section 411.0421, Government
28	Code; and
29	(C) the person is entitled to expunction of
30	information contained in criminal records and files under Chapter
31	55A; and
32	(2) notify the Department of Public Safety regarding:
33	(A) the misuse of the identifying information;
34	(B) the actual identity of the person arrested,
35	if known by the agency; and
36	(C) whether the agency was able to notify the
37	person whose identifying information was misused. (Code Crim.
38	Proc., Art. 2.28.)
39	Source Law
40 41 42 43	Art. 2.28. DUTIES REGARDING MISUSED IDENTITY. On receipt of information to the effect that a person's identifying information was falsely given by a person arrested as the arrested person's identifying

1 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	information, the local law enforcement agency responsible for collecting identifying information on arrested persons in the county in which the arrest was made shall: (1) notify the person that: (A) the person's identifying information was misused by another person arrested in the county; (B) the person may file a declaration with the Department of Public Safety under Section 411.0421, Government Code; and (C) the person is entitled to expunction of information contained in criminal records and files under Chapter 55 of this code; and (2) notify the Department of Public Safety regarding: (A) the misuse of the identifying information; (B) the actual identity of the person arrested, if known by the agency; and (C) whether the agency was able to notify the person whose identifying information was misused.
24	Revised Law
25	Art. 2A.062. EDUCATION AND TRAINING ON EYEWITNESS
26	IDENTIFICATION. (a) In this article, "law enforcement agency"
27	means an agency of the state or of a political subdivision of the
28	state authorized by law to employ peace officers.
29	(b) The Texas Commission on Law Enforcement shall establish
30	a comprehensive education and training program on eyewitness
31	identification, including material regarding:
32	(1) variables that affect a witness's vision and
33	memory;
34	(2) practices for minimizing contamination; and
35	(3) effective eyewitness identification protocols.
36	(c) Each law enforcement agency shall require each peace
37	officer who is employed by the agency and who performs eyewitness
38	identification procedures to complete the education and training
39	described by Subsection (b). (Code Crim. Proc., Art. 2.1386.)
40	Source Law
41 42 43 44 45 46 47 48 49	Art. 2.1386. EYEWITNESS IDENTIFICATION PROTOCOLS. (a) In this article, "law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers. (b) The Texas Commission on Law Enforcement shall establish a comprehensive education and training program on eyewitness identification, including material regarding variables that affect a witness's vision and memory, practices for minimizing

contamination, and effective eyewitness 2 identification protocols.

3 Each law enforcement agency shall require each peace officer who is employed by the agency and who performs eyewitness identification procedures to complete the education and training described by 5 6 7 Subsection (b).

8 Revised Law

- 9 Art. 2A.063. SHERIFF AS CONSERVATOR OF THE PEACE. A sheriff is a conservator of the peace in the sheriff's county and shall: 10
- (1)arrest each person who commits an offense in the 11 view or hearing of the sheriff and take the offender before the 12 13 proper court for examination or trial;
- 14 (2) suppress all assaults, affrays, insurrections, 15 and unlawful assemblies; and
- apprehend and commit to jail each person who 16 (3) 17 commits an offense until an examination or trial can be held. (Code 18 Crim. Proc., Art. 2.17.)

19 Source Law

Art. 2.17. CONSERVATOR OF THE PEACE. Each sheriff shall be a conservator of the peace in his and shall arrest all offenders against county, laws of the State, in his view or hearing, and take them before the proper court for examination or trial. quell and shall assaults suppress all batteries, affrays, insurrections and unlawful assemblies. He shall apprehend and commit to jail all offenders, until an examination or trial can be had.

Revisor's Note

- Article 2.17, Code of Criminal Procedure, (1)refers to "assaults and batteries." The revised law 31 "and batteries" as redundant because 32 omits 33 legislature's enactment of Section 22.01, Penal Code, 34 which is entitled "assault" superseded and consolidated the common law offenses of assault and battery. See also Section 1.03(a), Penal Code.
 - Article 2.17, Code of Criminal Procedure, states that a sheriff "shall arrest all offenders against the laws of the State" in the view or hearing of the sheriff. The revised law substitutes "person who commits an offense" for "offender" because an

20

21 22

23 24

25

26 27

28

29

30

35

36

37

38

39

40

- offender is a person who commits an offense and omits

 "against the laws of the State" as redundant because in
- this context an offense is a violation of a law of this state.
- (3) Article 2.17, Code of Criminal Procedure, provides that each sheriff shall "quell" and "suppress" certain offenses. The revised law omits "quell" because, in context, "quell" is included in
- 10 Revised Law

the meaning of "suppress."

- 11 Art. 2A.064. SHERIFF'S DUTIES RELATED TO CUSTODY OF
- 12 DEFENDANTS. (a) Except as provided by Subsection (b), a sheriff
- 13 shall place in jail a defendant committed to jail by a warrant from
- 14 a magistrate or court.

9

- 15 (b) A sheriff may permit a defendant committed to jail by a
- 16 warrant from a magistrate or court to remain out of jail for a
- 17 reasonable time to procure bail if the defendant:
- 18 (1) was committed for want of bail; or
- 19 (2) was arrested in a bailable case.
- 20 (c) A sheriff shall guard a defendant permitted to remain
- 21 out of jail under Subsection (b) to prevent escape. (Code Crim.
- 22 Proc., Art. 2.18.)

23 Source Law

Art. 2.18. 24 CUSTODY OF PRISONERS. When prisoner is committed to jail by warrant from a magistrate or court, he shall be placed in jail by the 25 26 It is a violation of duty on the part of any 27 sheriff. 28 sheriff to permit a defendant so committed to remain 29 out of jail, except that he may, when a defendant is committed for want of bail, or when he arrests in a bailable case, give the person arrested a reasonable 30 31 time to procure bail; but he shall so guard the accused 32 33 as to prevent escape.

<u>Revisor's Note</u>

35 (1) Article 2.18, Code of Criminal Procedure, 36 refers to a "prisoner." For consistency in 37 terminology, the revised law substitutes "defendant" 38 for "prisoner" because, in this context, the terms are

- synonymous and the former is more commonly used in the 1 Code of Criminal Procedure.
 - (2) Article 2.18, Code of Criminal Procedure, requires a sheriff to place in jail a defendant committed to jail by a warrant from a magistrate or That article further provides that "[i]t is a violation of duty on the part of any sheriff to permit a defendant so committed to remain out of jail." The revised law omits the quoted phrase as unnecessary because any failure by the sheriff to comply with the requirement to commit the defendant to jail would clearly constitute a violation of that duty.
 - Article 2.18, Code of Criminal Procedure, provides that a sheriff shall guard the "accused" to prevent escape. The revised law substitutes "defendant permitted to remain out of jail under Subsection (b)" for "accused" for consistency in terminology used in the article and because it is clear, in this context, that the "accused" means the defendant whom the sheriff permitted to remain out of jail under the circumstances described by Subsection (b).

22 Revised Law

- 23 Art. 2A.065. DEPUTY OR OTHER OFFICER TO DISCHARGE SHERIFF'S 24 DUTIES. (a) A sheriff's deputy may perform any duty imposed on the 25 sheriff under this code.
- If there is no sheriff in a county, the duties of the 26 (b) sheriff's office relating to criminal law are conferred on the 27 officer empowered under law to discharge the duties of that office 28 when the office is vacant. (Code Crim. Proc., Art. 2.20.) 29

30 Source Law

> DEPUTY. Art. 2.20. Wherever a duty is imposed by this Code upon the sheriff, the same duty may lawfully be performed by his deputy. When there is no sheriff in a county, the duties of that office, as to all proceedings under the criminal law, devolve upon officer who, under the law, is empowered to discharge the duties of sheriff, in case of vacancy in

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

31

36

1 the office.

Revisor's Note 2

2.20, Code of Criminal Procedure, 3 Article provides that a duty imposed by that code on the 4 5 sheriff may "lawfully" be performed by the sheriff's 6 deputy. Throughout this chapter, the revised law omits "lawfully" because if a statute provides that a person 7 may perform a certain duty, the duty necessarily may be 8 "lawfully" performed. 9

10 Revised Law

Art. 2A.066. EXECUTION OF PROCESS BY COUNTY JAILER. 11 jailer licensed under Chapter 1701, Occupations Code, who has 12 successfully completed a training program provided by the sheriff 13 may execute lawful process issued to the jailer by any magistrate or 14 court on a person confined in the jail at which the jailer is 15 employed to the same extent that a peace officer is authorized to 16 17 execute process under Article 2A.051(3), including:

- 18 a warrant under Chapter 15, 17, or 18; (1)
- 19 (2) a capias under Chapter 17 or 23;
- a subpoena under Chapter 20A or 24; or 20 (3)
- 21 an attachment under Chapter 20A or 24.
- 22 (b) A jailer licensed under Chapter 1701, Occupations Code,

may execute lawful process issued to the jailer by any magistrate or

- 24 court on a person confined in the jail at which the jailer is
- employed to the same extent that a peace officer is authorized to 25
- 26 execute process under Article 2A.051(3), including:
- 27 (1)a warrant under Chapter 15, 17, or 18;
- 28 a capias under Chapter 17 or 23; (2)
- a subpoena under Chapter 20A or 24; or 29 (3)
- an attachment under Chapter 20A or 24. (Code Crim. 30 (4)
- Proc., Art. 2.31, as added Acts 82nd Leg., R.S., Chs. 176, 1341.) 31
- 32 Source Law
- 33
- [as added Acts 82nd Leg., R.S., Ch. 176] Art. 2.31. COUNTY JAILERS. If a jailer licensed 34
- under Chapter 1701, Occupations Code, has successfully 35
- completed a training program provided by the sheriff, 36

1 the jailer may execute lawful process issued to the 2 jailer by any magistrate or court on a person confined 3 in the jail at which the jailer is employed to the same extent that a peace officer is authorized to execute process under Article 2.13(b)(2), including:

(1) a warrant under Chapter 15, 17, or 18; 5 6 7 a capias under Chapter 17 or 23; (2) 8 (3) a subpoena under Chapter 20A or 24; or 9 (4)an attachment under Chapter 20A or 24. 10

11

[as added Acts 82nd Leg., R.S., Ch. 1341] Art. 2.31. COUNTY JAILERS. A ja A jailer licensed under Chapter 1701, Occupations Code, may execute lawful process issued to the jailer by any magistrate or court on a person confined in the jail at which the jailer is employed to the same extent that a peace officer is authorized to execute process under Article 2.13(b)(2), including:

- (1)a warrant under Chapter 15, 17, or 18;
- a capias under Chapter 17 or 23; (2)
- a subpoena under Chapter 20A or 24; or (3)
- (4)an attachment under Chapter 20A or 24.

22 SUBCHAPTER C. ATTORNEYS REPRESENTING STATE

23 Revised Law

16 17

18

19

20

21

39

40

41

42

43

44

45

46

- Art. 2A.101. GENERAL DUTIES OF ATTORNEYS REPRESENTING 2.4 (a) The primary duty of an attorney representing the state, 25 26 including a special prosecutor, is not to convict but to see that 27 justice is done.
- 28 (b) An attorney representing the state, including a special prosecutor, may not suppress facts or conceal witnesses capable of 29 30 establishing the innocence of the defendant. (Code Crim. Proc., 31 Art. 2.01 (part).)

32 Source Law

33 It shall be the primary duty of all prosecuting attorneys, including any special 34 prosecutors, not to convict, but to see that justice is done. They shall not suppress facts or secrete witnesses capable of establishing the innocence of the 35 36 37 38 accused.

Revisor's Note

Article 2.01, Code of Criminal Procedure, (1)refers to a "prosecuting [attorney]." Throughout this chapter, the revised law substitutes "attorney representing the state" for "prosecuting [attorney]" and "attorney for the state" because the terms are synonymous and "attorney representing the state" is more commonly used in the Code of Criminal Procedure.

- 1 (2) Article 2.01, Code of Criminal Procedure,
 2 refers to the "accused." The revised law substitutes
 3 "defendant" for "accused" because, in this context,
 4 the terms are synonymous and "defendant" is more
 5 commonly used in the Code of Criminal Procedure.
- 6 (3) Article 2.01, Code of Criminal Procedure,
 7 says an attorney may not "secrete witnesses" who could
 8 establish a defendant's innocence. The revised law
 9 substitutes "conceal" for "secrete" because in this
 10 context the terms are synonymous and "conceal" is more
 11 consistent with modern usage.

12 Revised Law

- Art. 2A.102. DUTIES OF DISTRICT ATTORNEYS. (a) Each district attorney shall represent the state in all criminal cases in the district courts of the attorney's district and in appeals from those cases.
- (b) Unless prevented by other official duties, a district attorney shall represent the state in any criminal proceeding before an examining court in the attorney's district or before a judge on habeas corpus, if the attorney is:
- 21 (1) notified of the proceeding; and
- 22 (2) in the attorney's district at the time. (Code
- 23 Crim. Proc., Art. 2.01 (part).)

24 Source Law

25 Art. 2.01. DUTIES OF DISTRICT ATTORNEYS. 26 district attorney shall represent the State in all criminal cases in the district courts of his district 27 and in appeals therefrom, When any criminal proceeding is had before an examining court in his district or before a judge upon habeas corpus, and he 28 29 30 31 is notified of the same, and is at the time within his district, he shall represent the State therein, unless 32 prevented by other official duties. . 33

34 Revised Law

Art. 2A.103. DUTIES OF COUNTY ATTORNEYS. (a) Each county
attorney shall attend the terms of court for trial courts other than
district courts in the attorney's county and represent the state in
all criminal cases under examination or prosecution in that county.

- 1 (b) In the absence of the district attorney, the county
- 2 attorney shall represent the state alone and, when requested by the
- 3 district attorney, shall aid the district attorney in prosecuting a
- 4 case in behalf of the state in district court.
- 5 (c) The county attorney shall represent the state in the
- 6 appeal of a case prosecuted by the county attorney. (Code Crim.
- 7 Proc., Art. 2.02.)

10

11

12 13

14

19

20

21

22

23

24

25

26

27

28

29

8 <u>Source Law</u>

Art. 2.02. DUTIES OF COUNTY ATTORNEYS. The county attorney shall attend the terms of court in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone and, when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court. He shall represent the State in cases he has prosecuted which are appealed.

Revisor's Note

Article 2.02, Code of Criminal Procedure, provides that the county attorney shall aid the district attorney in the prosecution of any case in behalf of the state in the district court "when requested." The revised law adds "by the district attorney" after "when requested" because it is clear from the context that the district attorney is the person who may request the county attorney's aid.

Revised Law

- Art. 2A.104. TEMPORARY APPOINTMENT OF ATTORNEY. (a) In this article, "attorney representing the state" means a county attorney with criminal jurisdiction, a district attorney, or a criminal district attorney.
- 34 (b) If an attorney representing the state is disqualified to act in any case or proceeding, is absent from the county or 36 district, or is otherwise unable to perform the duties of the 37 attorney's office, or if there is no attorney representing the 38 state, the judge of the court in which the attorney represents the 39 state may appoint to perform the duties of the attorney's office

- 1 during the attorney's absence or disqualification:
- 2 (1) an attorney representing the state from any county
- 3 or district; or

19

20

21

22

23

24

25

26 27 28

29

30 31

32 33

34

35

36

37

38

39

40 41

42 43 44

45

- 4 (2) an assistant attorney general.
- 5 (c) An attorney representing the state who is not
- 6 disqualified to act may request the court to permit the attorney's
- 7 recusal in a case for good cause, and on approval by the court, the
- 8 attorney is disqualified.
- 9 (d) Except as otherwise provided by this subsection, the
- 10 duties of the office appointed under Subsection (b) are additional
- 11 duties of the appointed attorney's present office, and the attorney
- 12 is not entitled to additional compensation. This subsection does
- 13 not prevent a commissioners court of a county from contracting with
- 14 another commissioners court to pay expenses and reimburse
- 15 compensation paid by a county to an attorney who is appointed to
- 16 perform additional duties. (Code Crim. Proc., Art. 2.07.)

17 Source Law

- Art. 2.07. ATTORNEY PRO TEM. (a) Whenever an attorney for the state is disqualified to act in any case or proceeding, is absent from the county or district, or is otherwise unable to perform the duties of the attorney's office, or in any instance where there is no attorney for the state, the judge of the court in which the attorney represents the state may appoint, from any county or district, an attorney for the state or may appoint an assistant attorney general to perform the duties of the office during the absence or disqualification of the attorney for the state.
- provided (b) Except as otherwise bу this subsection, the duties of the appointed office are additional duties of the appointed attorney's present office, and the attorney is not entitled to additional compensation. This subsection does not prevent commissioners court of a county from contracting with court to another commissioners pay expenses reimburse compensation paid by a county to an attorney who is appointed to perform additional duties.
- (b-1) An attorney for the state who is not disqualified to act may request the court to permit the attorney's recusal in a case for good cause, and on approval by the court, the attorney is disqualified.
- (d) In this article, "attorney for the state" means a county attorney with criminal jurisdiction, a district attorney, or a criminal district attorney.

Revised Law

Art. 2A.105. GROUNDS FOR DISQUALIFICATION. (a) A district attorney may not represent the state in a criminal case in which the

- 1 attorney has been, before the attorney's election, employed
- 2 adversely to the state.
- 3 (b) A district or county attorney may not:
- 4 (1) be of counsel adversely to the state in any case in
- 5 any court; or
- 6 (2) after the attorney ceases to be a district or
- 7 county attorney, be of counsel adversely to the state in any case in
- 8 which the attorney has been of counsel for the state.
- 9 (c) A judge of a court in which a district or county attorney 10 represents the state shall declare the attorney disqualified for
- 11 purposes of Article 2A.104 on a showing that the attorney is the
- 12 subject of a criminal investigation by a law enforcement agency if
- 13 that investigation is based on credible evidence of criminal
- 14 misconduct for an offense that is within the attorney's authority
- 15 to prosecute. A disqualification under this subsection applies
- 16 only to the attorney's access to the criminal investigation pending
- 17 against the attorney and to any prosecution of a criminal charge
- 18 resulting from that investigation. (Code Crim. Proc., Arts. 2.01
- 19 (part), 2.08.)

22 23

24 25

26

27 28

29 30

31

32 33 34

35

40

41

42 43 44

20 Source Law

- [Art. 2.01. DUTIES OF DISTRICT ATTORNEYS. Each district attorney shall represent the State in all criminal cases in the district courts of his district and in appeals therefrom,] except in cases where he has been, before his election, employed adversely. . . .
- Art. 2.08. DISQUALIFIED. (a) District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State.
- (b) A judge of a court in which a district or county attorney represents the State shall declare the district or county attorney disqualified for purposes of Article 2.07 on a showing that the attorney is the subject of a criminal investigation by a law enforcement agency if that investigation is based on credible evidence of criminal misconduct for an offense that is within the attorney's authority to prosecute. A disqualification under this subsection applies only to the attorney's access to the criminal investigation pending against the attorney and to any prosecution of a criminal charge resulting from that investigation.

- 2 Art. 2A.106. NEGLECT OR FAILURE OF DUTY; VIOLATION OF LAW.
- 3 (a) An attorney representing the state shall present to the court
- 4 with jurisdiction an information charging an officer with neglect
- 5 or failure of duty if:
- 6 (1) the attorney learns that the officer has neglected
- 7 or failed to perform a duty imposed on the officer; and
- 8 (2) the neglect or failure of duty can be presented by
- 9 information.
- 10 (b) An attorney representing the state shall notify the
- 11 grand jury of any act that violated the law or any neglect or
- 12 failure of duty by an officer if:
- 13 (1) the attorney learns that the officer has in act
- 14 violated a law or neglected or failed to perform a duty; and
- 15 (2) the act that violated the law or the neglect or
- 16 failure of duty cannot be presented by information. (Code Crim.
- 17 Proc., Art. 2.03(a).)

20

21 22

23

24

25

26

27

28

34

35

36

37

38

18 <u>Source Law</u>

Art. 2.03. NEGLECT OF DUTY. (a) It shall be the duty of the attorney representing the State to present by information to the court having jurisdiction, any officer for neglect or failure of any duty enjoined upon such officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said attorney that there has been a neglect or failure of duty upon the part of said officer; and he shall bring to the notice of the grand jury any act of violation of law or neglect or failure of duty upon the part of any officer, when such violation, neglect or failure is not presented by information, and whenever the same may come to his knowledge.

33 <u>Revisor's Note</u>

Article 2.03(a), Code of Criminal Procedure, refers to a duty "enjoined" on an officer. The revised law substitutes "imposed" for "enjoined" because in this context the terms are synonymous and "imposed" is more consistent with modern usage.

39 Revised Law

40 Art. 2A.107. RECORDING AND FILING COMPLAINTS. (a) If a

- 1 complaint is made before a district or county attorney that an
- 2 offense has been committed in the attorney's district or county, as
- 3 applicable, the attorney shall:
- 4 (1) reduce the complaint to writing;
- 5 (2) cause the complaint to be signed and sworn to by
- 6 the complainant;
- 7 (3) attest the complaint; and
- 8 (4) as applicable:
- 9 (A) if the offense is a misdemeanor and except as
- 10 provided by Subsection (b), immediately prepare an information
- 11 based on the complaint and file the information in the court having
- 12 jurisdiction; or

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38 39

40

41 42

- 13 (B) if the offense is a felony, immediately file
- 14 the complaint with a magistrate of the county.
- 15 (b) In a county that does not have a county attorney or a
- 16 criminal district court, a misdemeanor case may be tried based on
- 17 complaint alone without an information.
- 18 (c) For purposes of fulfilling the duties under this
- 19 article, a district or county attorney may administer oaths. (Code
- 20 Crim. Proc., Arts. 2.04, 2.05, 2.06.)

21 Source Law

Art. 2.04. SHALL DRAW COMPLAINTS. Upon complaint being made before a district or county attorney that an offense has been committed in his district or county, he shall reduce the complaint to writing and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by said attorney.

Art. 2.05. WHEN COMPLAINT IS MADE. If the offense be a misdemeanor, the attorney shall forthwith prepare an information based upon such complaint and file the same in the court having jurisdiction; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county.

Art. 2.06. MAY ADMINISTER OATHS. For the purpose mentioned in the two preceding Articles, district and county attorneys are authorized to administer oaths.

43 administer oaths.

Revisor's Note

Article 2.05, Code of Criminal Procedure, requires a district or county attorney who receives a complaint under Article 2.04, Code of Criminal Procedure, in the case of a misdemeanor to prepare an file it with information and а court jurisdiction. Article 2.05 then provides an exception to this requirement for counties having no county attorney by permitting misdemeanor cases to be tried based on the complaint alone in those counties. Lastly, the article requires an information to be filed in misdemeanor cases in counties having criminal district courts, regardless of whether the county has a county attorney. The revised law recasts that requirement to file an information in counties with criminal district courts, regardless of the presence a county attorney, as a limitation on applicability of the exception because it is clear that the requirement applies regardless of presence of a county attorney.

21 Revised Law

- 22 Art. 2A.108. ASSISTANCE OF ATTORNEY GENERAL IN CERTAIN 23 CASES. (a) In this article, "assistance" includes investigative, 24 technical, and litigation assistance.
- 25 (b) The attorney general may offer to a county or district 26 attorney the assistance of the attorney general's office in the 27 prosecution of an offense described by Article 66.102(h) the victim 28 of which is younger than 17 years of age at the time the offense is 29 committed.
- 30 (c) On request of a county or district attorney, the 31 attorney general shall assist in the prosecution of an offense 32 described by Subsection (b). (Code Crim. Proc., Art. 2.021.)

33 <u>Source Law</u>

34 Art. 2.021. DUTIES OF ATTORNEY GENERAL. The

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

attorney general may offer to a county or district attorney the assistance of the attorney general's 1 2 3 office in the prosecution of an offense described by Article 66.102(h) the victim of which is younger than 17 years of age at the time the offense is committed. On request of a county or district attorney, the 5 6 7 attorney general shall assist in the prosecution of an 8 offense described by Article 66.102(h) the victim of 9 which is younger than 17 years of age at the time the offense is committed. 10 For purposes of this article, includes investigative, technical, and 11 assistance 12 litigation assistance of the attorney general's 13 office.

14 Revised Law

- 15 Art. 2A.109. ASSISTANCE OF TEXAS RANGERS IN CERTAIN CASES.
- 16 The attorney representing the state may request the Texas Rangers
- 17 division of the Department of Public Safety to provide assistance,
- 18 including investigative, technical, and administrative assistance,
- 19 to a local law enforcement agency investigating an offense that:
- 20 (1) is alleged to have been committed by an elected
- 21 officer of the political subdivision served by the local law
- 22 enforcement agency; and

27

28

29

30

31

32

33

34

35

36

37

38 39

40

- 23 (2) on conviction or adjudication, would subject the
- 24 elected officer to registration as a sex offender under Chapter 62.
- 25 (Code Crim. Proc., Art. 2.022.)

26 <u>Source Law</u>

- Art. 2.022. ASSISTANCE OF TEXAS RANGERS. (a) The attorney representing the state may request the Texas Rangers division of the Department of Public Safety to provide assistance to a local law enforcement agency investigating an offense that:
 - (1) is alleged to have been committed by an elected officer of the political subdivision served by the local law enforcement agency; and
- (2) on conviction or adjudication, would subject the elected officer to registration as a sex offender under Chapter 62.
- (b) For purposes of this article, "assistance" includes investigative, technical, and administrative assistance.

41 Revised Law

- Art. 2A.110. NOTIFICATION TO TEXAS DEPARTMENT OF CRIMINAL JUSTICE OF CERTAIN INDICTMENTS. (a) This article applies only to a defendant who, in connection with a previous conviction for an offense listed in Article 42A.054(a) or for which the judgment
- 46 contains an affirmative finding under Article 42A.054(c) or (d):
- 47 (1) received a sentence that included imprisonment at

- 1 a facility operated by or under contract with the Texas Department
- 2 of Criminal Justice; and
- 3 (2) was subsequently released from the imprisonment,
- 4 including a release on parole, to mandatory supervision, or
- 5 following discharge of the defendant's sentence.
- 6 (b) Not later than the 10th day after the date that a
- 7 defendant described by Subsection (a) is indicted for an offense
- 8 listed in Article 42A.054(a), the attorney representing the state
- 9 shall notify an officer designated by the Texas Department of
- 10 Criminal Justice of the offense charged in the indictment. (Code
- 11 Crim. Proc., Art. 2.023.)

12 <u>Source Law</u>

- Art. 2.023. NOTIFICATION TO TEXAS DEPARTMENT OF CRIMINAL JUSTICE. (a) This article applies only to a defendant who, in connection with a previous conviction for an offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d):
- (1) received a sentence that included imprisonment at a facility operated by or under contract with the Texas Department of Criminal Justice; and
- (2) was subsequently released from the imprisonment, including a release on parole, to mandatory supervision, or following discharge of the defendant's sentence.
- (b) Not later than the 10th day after the date that a defendant described by Subsection (a) is indicted for an offense listed in Article 42A.054(a) or for which the judgment contains an affirmative finding under Article 42A.054(c) or (d), the attorney representing the state shall notify an officer designated by the Texas Department of Criminal Justice of the offense charged in the indictment.

Revisor's Note

Article 2.023(b), Code of Criminal Procedure, refers to an indictment for an offense listed in Article 42A.054(a) or an indictment for an offense "for which the judgment contains an affirmative finding under Article 42A.054(c) or (d)." The revised law omits the quoted phrase as superfluous because a judgment does not exist at the time of the indictment for an offense.

1	Revised Law
2	Art. 2A.111. TRACKING USE OF CERTAIN TESTIMONY. (a) In
3	this article:
4	(1) "Attorney representing the state" means a district
5	attorney, a criminal district attorney, or a county attorney with
6	criminal jurisdiction.
7	(2) "Correctional facility" has the meaning assigned
8	by Section 1.07, Penal Code.
9	(b) An attorney representing the state shall track:
10	(1) the use of testimony of a person to whom a
11	defendant made a statement against the defendant's interest while
12	the person was imprisoned or confined in the same correctional
13	facility as the defendant, if known by the attorney representing
14	the state, regardless of whether the testimony is presented at
15	trial; and
16	(2) any benefits offered or provided to a person in
17	exchange for testimony described by Subdivision (1). (Code Crim.
18	Proc., Art. 2.024.)
19	Source Law
20 21 22 23 24 25 26 27 28 29 31 33 33 33 33 33 33 33 33 33	Art. 2.024. TRACKING USE OF CERTAIN TESTIMONY. (a) In this article: (1) "Attorney representing the state" means a district attorney, a criminal district attorney, or a county attorney with criminal jurisdiction. (2) "Correctional facility" has the meaning assigned by Section 1.07, Penal Code. (b) An attorney representing the state shall track: (1) the use of testimony of a person to whom a defendant made a statement against the defendant's interest while the person was imprisoned or confined in the same correctional facility as the defendant, if known by the attorney representing the state, regardless of whether the testimony is presented at trial; and (2) any benefits offered or provided to a person in exchange for testimony described by Subdivision (1).
40	SUBCHAPTER D. MAGISTRATES AND CLERKS
41	Revised Law
42	Art. 2A.151. TYPES OF MAGISTRATES. The following officers

are magistrates for purposes of this code:

```
a justice of the supreme court;
 1
                (1)
                (2)
                     a judge of the court of criminal appeals;
 2
                     a justice of the courts of appeals;
 3
                (3)
 4
                     a judge of a district court;
                (4)
                     an associate judge appointed by:
5
                (5)
                          a judge of a district court or a statutory
6
7
    county court that gives preference to criminal cases in Jefferson
8
    County;
9
                     (B)
                          a judge of a district court or a statutory
    county court of Brazos County, Nueces County, or Williamson County;
10
11
    οr
12
                          a judge of a district court under Chapter
13
    54A, Government Code;
14
                     a criminal magistrate appointed by:
                (6)
```

- 15 (A) the Brazoria County Commissioners Court; or
- 16 (B) the Burnet County Commissioners Court;
- 17 (7) a criminal law hearing officer for:
- 18 (A) Harris County appointed under Subchapter L,
- 19 Chapter 54, Government Code; or
- 20 (B) Cameron County appointed under Subchapter
- 21 BB, Chapter 54, Government Code;
- 22 (8) a magistrate appointed:
- (A) by a judge of a district court of Bexar
- 24 County, Dallas County, or Tarrant County that gives preference to
- 25 criminal cases;
- 26 (B) by a judge of a criminal district court of
- 27 Dallas County or Tarrant County;
- (C) by a judge of a district court or statutory
- 29 county court that gives preference to criminal cases in Travis
- 30 County;
- 31 (D) by the El Paso Council of Judges;
- 32 (E) by the Fort Bend County Commissioners Court;
- 33 (F) by the Collin County Commissioners Court; or
- 34 (G) under Subchapter JJ, Chapter 54, Government

1 Code;

- 2 (9) a magistrate or associate judge appointed by a
- 3 judge of a district court of Lubbock County, Nolan County, or Webb
- 4 County;

16

17

18 19 20

21 22

23

24

25 26

27 28 29

30 31

36

37

38 39 40

41

42

43

44 45

46

52

- 5 (10) a county judge;
- 6 (11) a judge of:
- 7 (A) a statutory county court;
- 8 (B) a county criminal court; or
- 9 (C) a statutory probate court;
- 10 (12) an associate judge appointed by a judge of a
- 11 statutory probate court under Chapter 54A, Government Code;
- 12 (13) a justice of the peace; and
- 13 (14) a mayor or recorder of a municipality or a judge
- 14 of a municipal court. (Code Crim. Proc., Art. 2.09.)

15 <u>Source Law</u>

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, the magistrates or associate judges appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the associate judges appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the associate judges appointed by the judges of district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, the criminal magistrates appointed by the Brazoria County Commissioners Court, the criminal magistrates appointed by the Burnet County Commissioners Court, magistrates the magistrates appointed by the El Paso Council of Judges, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the associate judges appointed by the judges of the statutory probate courts under Chapter 54A, Government Code, the associate judges appointed by the judge of a district Chapter 54A, Government court under Code, the

magistrates appointed under Subchapter JJ, Chapter 54, Government Code, the magistrates appointed by the Collin County Commissioners Court, the magistrates appointed by the Fort Bend County Commissioners Court, the justices of the peace, and the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

Revisor's Note

Article 2.09, Code of Criminal Procedure, refers
to a "county [court] at law." For consistency in
terminology, throughout this article the revised law
substitutes "statutory county court" for "county court
at law" because the terms have the same meaning and the
former is more commonly used in this article.

15 Revised Law

- Art. 2A.152. GENERAL DUTIES OF MAGISTRATES. Each
- 17 magistrate shall:

8

- 18 (1) preserve the peace within the magistrate's
- 19 jurisdiction using all lawful means;
- 20 (2) issue all process intended to aid in preventing
- 21 and suppressing crime; and
- 22 (3) cause the arrest of offenders using lawful means
- 23 so that the offenders may be brought to punishment. (Code Crim.
- 24 Proc., Art. 2.10.)

25 <u>Source Law</u>

Art. 2.10. DUTY OF MAGISTRATES. It is the duty of every magistrate to preserve the peace within his jurisdiction by the use of all lawful means; to issue all process intended to aid in preventing and suppressing crime; to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment.

33 <u>Revised Law</u>

- Art. 2A.153. GENERAL DUTIES OF CLERKS. (a) In this article, "digital multimedia evidence" means evidence stored or transmitted in a binary form and includes data representing documents, audio, video metadata, and any other information
- 38 attached to a digital file.
- 39 (b) In a criminal proceeding, the clerk of a district or 40 county court shall:

- 1 (1) receive and file all papers;
- 2 (2) receive all exhibits at the conclusion of the
- 3 proceeding;
- 4 (3) issue all process;
- 5 (4) accept and file electronic documents received from
- 6 the defendant, if the clerk accepts electronic documents from an
- 7 attorney representing the state;
- 8 (5) accept and file digital multimedia evidence
- 9 received from the defendant, if the clerk accepts digital
- 10 multimedia evidence from an attorney representing the state; and
- 11 (6) perform all other duties imposed on the clerk by
- 12 law.

25

26

27

28

29 30

31

32

33 34

35

36 37

38

39 40

41

42

43

44

- 13 (c) A district clerk is exempt from the requirements of
- 14 Subsections (b)(4) and (5) if the electronic filing system used by
- 15 the clerk for accepting electronic documents or electronic digital
- 16 media from an attorney representing the state does not have the
- 17 capability of accepting electronic filings from a defendant and the
- 18 system was established or procured before June 1, 2009. The
- 19 exemption provided by this subsection no longer applies to an
- 20 electronic filing system described by this subsection that is
- 21 substantially upgraded or is replaced with a new system. (Code
- 22 Crim. Proc., Arts. 2.21(a), (a-1), (k).)

23 Source Law

- Art. 2.21. DUTY OF CLERKS. (a) In a criminal proceeding, a clerk of the district or county court shall:
 - (1) receive and file all papers;
 - (2) receive all exhibits at the conclusion of the proceeding;
 - (3) issue all process;
 - (4) accept and file electronic documents received from the defendant, if the clerk accepts electronic documents from an attorney representing the state;
 - (5) accept and file digital multimedia evidence received from the defendant, if the clerk accepts digital multimedia evidence from an attorney representing the state; and
 - (6) perform all other duties imposed on the clerk by law.
- (a-1) A district clerk is exempt from the requirements of Subsections (a)(4) and (5) if the electronic filing system used by the clerk for accepting electronic documents or electronic digital

- 1 media from an attorney representing the state does not have the capability of accepting electronic filings from a defendant and the system was established or 2 3 procured before June 1, 2009. If the electronic filing 5 system described by this subsection is substantially 6 upgraded or is replaced with a new system, the 7 exemption provided by this subsection is no longer 8 applicable.
- 9 "digital In this article, multimedia evidence" means evidence stored or transmitted in a 10 binary form and includes data representing documents, 11 12 audio, video metadata, and any other information 13 attached to a digital file.

14 Revised Law

- 15 Art. 2A.154. DEPUTY CLERKS. A deputy clerk of a district or county court may perform any duty imposed on the clerk of that 16 court. (Code Crim. Proc., Art. 2.22.) 17
- 18 Source Law
- 19
- POWER OF DEPUTY CLERKS. Art. 2.22. Whenever a 20 duty is imposed upon the clerk of the district or county court, the same may be lawfully performed by his 2.1
- 2.2 deputy.
- 2.3 Revised Law
- 24 Art. 2A.155. CLERK'S DISPOSAL OF CERTAIN EXHIBITS. (a) Τn
- this article, "eligible exhibit" means an exhibit filed with the 25
- 26 clerk of a court that:
- 27 (1)is not a firearm or contraband;
- has not been ordered by the court to be returned to 2.8
- 29 its owner; and
- is not an exhibit in another pending criminal 30 (3)
- action. 31
- 32 An eligible exhibit may be disposed of as provided by
- 33 this article:
- 34 on or after the first anniversary of the date on
- which a conviction becomes final in the case, if the case is a 35
- misdemeanor or a felony for which the sentence imposed by the court 36
- 37 is five years or less;
- on or after the second anniversary of the date on 38
- 39 which a conviction becomes final in the case, if the case is a
- noncapital felony for which the sentence imposed by the court is 40
- greater than five years; 41

- 1 (3) on or after the first anniversary of the date of
- 2 the acquittal of the defendant; or
- 3 (4) on or after the first anniversary of the date of
- 4 the death of the defendant.
- 5 (c) Subject to Subsections (d), (e), and (f), a clerk may
- 6 dispose of an eligible exhibit, including by delivery of the
- 7 exhibit to the county purchasing agent for disposal as surplus or
- 8 salvage property under Section 263.152, Local Government Code, if
- 9 on the date provided by Subsection (b) the clerk has not received a
- 10 request for the exhibit from either the attorney representing the
- 11 state in the case or the attorney representing the defendant.
- 12 (d) Before a clerk in a county with a population of less than
- 13 two million disposes of an eligible exhibit, the clerk must provide
- 14 written notice by mail to the attorney representing the state in the
- 15 case and the attorney representing the defendant. The notice must:
- 16 (1) describe the exhibit;
- 17 (2) include the name and address of the court holding
- 18 the exhibit; and
- 19 (3) state that the exhibit will be disposed of unless a
- 20 written request is received by the clerk before the 31st day after
- 21 the date of notice.
- (e) If a request is not received by a clerk to whom
- 23 Subsection (d) applies before the 31st day after the date of notice,
- 24 the clerk may dispose of the eligible exhibit in the manner
- 25 permitted by this article.
- 26 (f) If a request is timely received, the clerk shall deliver
- 27 the eligible exhibit to the person making the request if the court
- 28 determines the requestor is the owner of the exhibit.
- 29 (g) Notwithstanding Section 263.156, Local Government Code,
- 30 or any other law, the commissioners court shall remit 50 percent of
- 31 any proceeds of the disposal of an eligible exhibit as surplus or
- 32 salvage property as described by Subsection (c), less the
- 33 reasonable expense of keeping the exhibit before disposal and the
- 34 costs of that disposal, to each of the following:

1	(1) the county treasury, to be used only to defray the
2	costs incurred by the district clerk of the county for the
3	management, maintenance, or destruction of eligible exhibits in the
4	county; and
5	(2) the state treasury to the credit of the
6	compensation to victims of crime fund established under Subchapter
7	J, Chapter 56B. (Code Crim. Proc., Arts. 2.21(d), (e), (f), (f-1),
8	(g), (h), (i), (j).)
9	Source Law
$\begin{array}{c} 1111111111111122222222222333333333344444444$	exhibit filed with the clerk that: (1) is not a firearm or contraband; (2) has not been ordered by the court to be returned to its owner; and (3) is not an exhibit in another pending criminal action. (e) An eligible exhibit may be disposed of as provided by this article: (1) on or after the first anniversary of the date on which a conviction becomes final in the case, if the case is a misdemeanor or a felony for which the sentence imposed by the court is five years or less; (2) on or after the second anniversary of the date on which a conviction becomes final in the case, if the case is a non-capital felony for which the sentence imposed by the court is greater than five years; (3) on or after the second anniversary of the date on which a conviction becomes final in the case, if the case is a non-capital felony for which the sentence imposed by the court is greater than five years; (3) on or after the first anniversary of the date of the acquittal of a defendant; or (4) on or after the first anniversary of the date of the death of a defendant. (f) Subject to Subsections (g), (h), (i), and (j), a clerk may dispose of an eligible exhibit or may deliver the eligible exhibit to the county purchasing agent for disposal as surplus or salvage property under Section 263.152, Local Government Code, if on the date provided by Subsection (e) the clerk has not received a request for the exhibit from either the attorney representing the state in the case or the attorney representing the defendant. (f-1) Notwithstanding Section 263.156, Local Government Code, or any other law, the commissioners court shall remit 50 percent of any proceeds of the disposal of an eligible exhibit as surplus or salvage property as described by Subsection (f), less the reasonable expense of keeping the exhibit before disposal and the costs of that disposal, to each of the county for the management, maintenance, or destruction of eligible exhibits in the county; and (2) the state treasury to the credit of the compensation to victims of crime fund

1 the attorney representing the state in the case and the 2 attorney representing the defendant before disposing 3 of an eligible exhibit. (h) The notice under Subsection (g) of this 5 article must: 6 7 (1)describe the eligible exhibit; (2) give the name and address of the court 8 holding the exhibit; and (3) state that the eligible exhibit will be disposed of unless a written request is received by 9 10 11 the clerk before the 31st day after the date of notice. 12 If a request is not received by a clerk 13 covered by Subsection (g) before the 31st day after the date of notice, the clerk may dispose of the eligible exhibit in the manner permitted by this article, including the delivery of the eligible exhibit for 14 15 16 17 disposal as surplus or salvage property as described 18 by Subsection (f). 19 (j) If a request is timely received, the clerk deliver the eligible exhibit to the person the request if the court determines the 20 shall making the request if 21 requestor is the owner of the eligible exhibit. 22 23 Revised Law 24 Art. 2A.156. COURT REPORTER'S RELEASE OF FIREARMS AND CONTRABAND TO LAW ENFORCEMENT. 2.5 (a) At any time during or after a 26 criminal proceeding, the court reporter shall release for 27 safekeeping any firearm or contraband received as an exhibit in 28 that proceeding to: 29 (1)the sheriff; or 30 in a county with a population of 500,000 or more, (2) law enforcement agency that collected, seized, or took 31 32 possession of the firearm or contraband or produced the firearm or 33 contraband at the proceeding. 34 sheriff (b) or the law enforcement agency, as applicable, shall receive and hold the exhibits released under 35 36 Subsection (a) and: release the exhibits only to a person authorized 37 (1)38 by the court in which those exhibits have been received; or dispose of the exhibits as provided by Chapter 18. 39 (2) 40 (Code Crim. Proc., Arts. 2.21(b), (c).) 41 Source Law

proceeding, the court reporter shall release for safekeeping any firearm or contraband received as an 44 45 exhibit in that proceeding to:

(1)

(b)

in a county with a population of e, the law enforcement agency that (2) 500,000 or more,

the sheriff; or

At any time during or after a criminal

reporter shall release for

42

43

46

47

1 collected, seized, or took possession of the firearm 2 or contraband or produced the firearm or contraband at 3 the proceeding. (c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of firearms or contraband and release them 5 6 7 only to the person or persons authorized by the court in which such exhibits have been received or dispose of 8 9 them as provided by Chapter 18. 10 SUBCHAPTER E. REPORTING DUTIES 11 Revised Law 12 Art. 2A.201. PEACE OFFICERS: REPORT IN CONNECTION WITH 13 CERTAIN OFFENSES INVOLVING SENSITIVE INFORMATION. (a) 14 officer to whom an alleged violation of Section 31.17 or 32.51, 15 Penal Code, is reported shall make to the law enforcement agency 16 that employs the officer a written report that includes: 17 (1)the name of the victim; 18 (2) the name of the suspect, if known; 19 (3) as applicable, either: the type of financial sight order or payment 20 21 card information obtained or transferred in violation of Section 22 31.17, Penal Code; or 23 (B) the type of identifying information 24 obtained, possessed, transferred, or used in violation of Section 32.51, Penal Code; and 25 26 (4) the results of any investigation. 27 On the victim's request, the law enforcement agency shall provide the report made under Subsection (a) to the victim. 28 29 In providing the report, the law enforcement agency shall redact 30 any otherwise confidential information that is included in the report, other than the information described by Subsection (a). 31 (Code Crim. Proc., Arts. 2.29, 2.295.) 32 33 Source Law REPORT REQUIRED IN CONNECTION WITH 34 Art. 2.29. FRAUDULENT USE 35 OR POSSESSION OF IDENTIFYING 36 INFORMATION. (a) A peace officer to whom an alleged violation of Section 32.51, Penal Code, is reported shall make a written report to the law enforcement agency that employs the peace officer that includes 37 38 39 40 the following information: 41 (1)the name of the victim; the name of the suspect, if known; 42 (2) the type of identifying information 43

obtained, possessed, transferred, or used in violation of Section 32.51, Penal Code; and

> (4)the results of any investigation.

On the victim's request, the law enforcement shall provide the report Subsection (a) to the victim. In providing the report, the law enforcement agency shall redact any otherwise confidential information that is included in report, other than the information described Subsection (a).

Art. 2.295. REPORT REQUIRED IN CONNECTION WITH UNAUTHORIZED ACQUISITION OR TRANSFER OF FINANCIAL INFORMATION. (a) A peace officer to whom an alleged violation of Section 31.17, Penal Code, is reported shall make a written report to the law enforcement agency that employs the peace officer that includes the following information:

> (1)the name of the victim;

(2)

the name of the suspect, if known; the type of financial sight order (3) payment card information obtained or transferred in violation of Section 31.17, Penal Code; and

> (4)the results of any investigation.

On the victim's request, the law enforcement (b) provide agency shall the report created Subsection (a) to the victim. In providing the report, the law enforcement agency shall redact any otherwise confidential information that is included in information report, other than the described Subsection (a).

31 Revised Law

- 32 Art. 2A.202. PEACE OFFICERS: REPORT CONCERNING
- 33 ASSAULTIVE OR TERRORISTIC OFFENSES. (a) This article applies only
- 34 to the following offenses:
- 35 assault under Section 22.01, Penal Code; (1)
- 36 (2) aggravated assault under Section 22.02, Penal
- 37 Code;

1

2

3

4

5

6

8

9

10

11

12

17

18

19

20

21 22

23

24

25

26 27

28

29

- 38 (3) sexual assault under Section 22.011, Penal Code;
- 39 aggravated sexual assault under Section 22.021, (4)
- 40 Penal Code; and
- 41 (5) terroristic threat under Section 22.07, Penal
- 42 Code.
- A peace officer who investigates the alleged commission 43 (b)
- 44 an offense to which Subsection (a) applies shall prepare a
- 45 written report that includes the information required under Article
- 46 5.05(a).
- 47 On request of a victim of an offense to which Subsection
- applies, the local law enforcement agency responsible for 48
- 49 investigating the commission of the offense shall provide to the

victim, at no cost to the victim, any information contained in the 1 2 written report prepared under Subsection (b) that is: 3 described by Article 5.05(a)(1) or (2); and 4 (2) not exempt from disclosure under Chapter 552, Government Code, or other law. (Code Crim. Proc., Art. 2.30.) 5 6 Source Law 7 Art. 2.30. REPORT CONCERNING CERTAIN ASSAULTIVE OR TERRORISTIC OFFENSES. 8 (a) This article applies 9 only to the following offenses: under 10 assault Section 22.01, Penal (1)11 Code; 12 (2) assault under aggravated 22.02, Penal Code; 13 14 (3) sexual assault under Section 22.011, 15 Penal Code; (4)16 sexual assault under aggravated 17 Section 22.021, Penal Code; and 18 (5) terroristic threat under Section 22.07, Penal Code. 19 20 (b) A peace officer who investigates the alleged 21 commission of an offense listed under Subsection (a) shall prepare a written report that includes the information required under Article 5.05(a). 22 23 (c) On request of a victim of an offense listed 24 25 under Subsection (a), the local law enforcement agency 26 responsible for investigating the commission of the 27 offense shall provide the victim, at no cost to the 28 victim, with any information that is: 29 (1)contained the written in report 30 prepared under Subsection (b); 31 (2) described by Article 5.05(a)(1) or 32 (2); and 33 (3) not exempt from disclosure under 34 Chapter 552, Government Code, or other law. 35 Revised Law OR 36 Art. 2A.203. SHERIFFS: REPORT OF WARRANT CAPIAS INFORMATION. Not later than the 30th day after the date a court 37 38 clerk issues a warrant or capias, the sheriff: 39 shall report to the National Crime Information 40 Center each warrant or capias issued for a defendant charged with a 41 felony who fails to appear in court when summoned; and may report to the National Crime Information 42 (2) 43 Center each warrant or capias issued for a defendant charged with a misdemeanor other than a Class C misdemeanor who fails to appear in 44 45 court when summoned. (Code Crim. Proc., Art. 2.195.)

Source Law

71

 OF

WARRANT

Not later than the 30th day after the

OR

CAPIAS

REPORT

INFORMATION.

Art. 2.195.

46

47

- date the court clerk issues the warrant or capias, the sheriff:
- 3 (1) shall report to the national crime 4 information center each warrant or capias issued for a 5 defendant charged with a felony who fails to appear in 6 court when summoned; and
- court when summoned; and
 (2) may report to the national crime
 information center each warrant or capias issued for a
 defendant charged with a misdemeanor other than a
 Class C misdemeanor who fails to appear in court when
 summoned.

12 Revised Law

- Art. 2A.204. SHERIFFS: REPORT ON PRISONERS. On the first
- 14 day of each month, the sheriff shall give written notice to the
- 15 district or county attorney, as applicable, of each prisoner in the
- 16 sheriff's custody, including:
- 17 (1) the name of each prisoner; and
- 18 (2) the authority under which the sheriff detains the
- 19 prisoner. (Code Crim. Proc., Art. 2.19.)

20 Source Law

- 21 Art. 2.19. REPORT AS TO PRISONERS. On the first
 22 day of each month, the sheriff shall give notice, in
 23 writing, to the district or county attorney, where
 24 there be one, as to all prisoners in his custody,
 25 naming them, and of the authority under which he
 26 detains them.
- 27 Revised Law
- 28 Art. 2A.205. CERTAIN LAW ENFORCEMENT AGENCIES: REPORT
- 29 CONCERNING HUMAN TRAFFICKING CASES. (a) This article applies only
- 30 to:

1

- 31 (1) a municipal police department, sheriff's
- 32 department, constable's office, county attorney's office, district
- 33 attorney's office, and criminal district attorney's office, as
- 34 applicable, in a county with a population of more than 50,000; and
- 35 (2) the Department of Public Safety.
- 36 (b) An entity to which this article applies that
- 37 investigates the alleged commission of an offense under Chapter
- 38 20A, Penal Code, or the alleged commission of an offense under
- 39 Chapter 43, Penal Code, that may involve human trafficking, shall
- 40 submit to the attorney general a report in the manner and form
- 41 prescribed by the attorney general containing the following
- 42 information:

- 1 (1) the offense being investigated, including a brief
- 2 description of the alleged prohibited conduct;
- 3 (2) regarding each person suspected of committing the
- 4 offense and each victim of the offense, as applicable:
- 5 (A) the person's:
- 6 (i) age;
- 7 (ii) gender; and
- 8 (iii) race or ethnicity, as defined by
- 9 Article 2B.0051; and
- 10 (B) the case number associated with the offense
- 11 and with the person suspected of committing the offense;
- 12 (3) the date, time, and location of the alleged
- 13 offense;
- 14 (4) the type of human trafficking involved, including:
- 15 (A) forced labor or services, as defined by
- 16 Section 20A.01, Penal Code;
- 17 (B) causing the victim by force, fraud, or
- 18 coercion to engage in prohibited conduct involving one or more
- 19 sexual activities, including conduct described by Section
- 20 20A.02(a)(3), Penal Code; or
- (C) causing a child victim by any means to engage
- 22 in, or become the victim of, prohibited conduct involving one or
- 23 more sexual activities, including conduct described by Section
- 24 20A.02(a)(7), Penal Code;
- 25 (5) if available, information regarding any victims'
- 26 service organization or program to which the victim was referred as
- 27 part of the investigation; and
- 28 (6) the disposition of the investigation, if any,
- 29 regardless of the manner of disposition.
- 30 (c) An attorney representing the state who prosecutes the
- 31 alleged commission of an offense under Chapter 20A, Penal Code, or
- 32 the alleged commission of an offense under Chapter 43, Penal Code,
- 33 that may involve human trafficking, shall submit to the attorney
- 34 general the following information:

1	(1) the offense being prosecuted, including a brief
2	description of the alleged prohibited conduct;
3	(2) any other charged offense that is part of the same
4	criminal episode out of which the offense described by Subdivision
5	(1) arose;
6	(3) the information described by Subsections (b)(2),
7	(3), (4), and (5); and
8	(4) the disposition of the prosecution, regardless of
9	the manner of disposition.
10	(d) The attorney general may enter into a contract with a
11	university that provides for the university's assistance in the
12	collection and analysis of information received under this article.
13	(e) In consultation with the entities described by
14	Subsection (a), the attorney general shall adopt rules to
15	administer this article, including rules prescribing:
16	(1) the form and manner of submission of a report
17	required by Subsection (b) or (c); and
18	(2) additional information to include in a report
19	required by Subsection (b) or (c). (Code Crim. Proc., Art. 2.305.)
20	Source Law
21 22 23 24 25 26 27 28 29 31 32 33 34 35 36 37 38 39 41 42 44 45	Art. 2.305. REPORT REQUIRED CONCERNING HUMAN TRAFFICKING CASES. (a) This article applies only to:
46 47	defined by Article 2.132; and (B) the case number associated with

2	offense;
2	(3) the date, time, and location of the
4	alleged offense;
5	(4) the type of human trafficking
4 5 6 7	involved, including: (A) forced labor or services, as
/ Q	defined by Section 20A.01, Penal Code;
8 9	(B) causing the victim by force,
10	fraud, or coercion to engage in prohibited conduct
	involving one or more sexual activities, including
1 D	conduct described by Section 20A.02(a)(3), Penal Code;
11 12 13 14 15	
L	Or (C) causing a child wistim by any
1 [(C) causing a child victim by any
16	means to engage in, or become the victim of, prohibited conduct involving one or more sexual activities,
17	including conduct described by Section 20A.02(a)(7),
18	Penal Code;
19	(5) if available, information regarding
20	any victims' service organization or program to which the victim was referred as part of the investigation;
2 T	and
21 22 23 24 25 26	(6) the disposition of the investigation,
23	if any, regardless of the manner of disposition.
25	(c) An attorney representing the state who
25	prosecutes the alleged commission of an offense under
20	Chapter 20A, Penal Code, or the alleged commission of
27 28	
20	an offense under Chapter 43, Penal Code, which may involve human trafficking, shall submit to the
29 30	attorney general the following information:
31	(1) the offense being prosecuted,
32	including a brief description of the alleged
33	prohibited conduct;
34	(2) any other charged offense that is part
35	of the same criminal episode out of which the offense
36	described by Subdivision (1) arose;
37	(3) the information described by
38	Subsections (b) (2) , (3) , (4) , and (5) ; and
39	(4) the disposition of the prosecution,
40	regardless of the manner of disposition.
41	(d) The attorney general may enter into a
12	contract with a university that provides for the
43	university's assistance in the collection and analysis
14	of information received under this article.
45	(e) In consultation with the entities described
16	by Subsection (a), the attorney general shall adopt
17	rules to administer this article, including rules
18	prescribing:
19	(1) the form and manner of submission of a
50	report required by Subsection (b) or (c); and
51	(2) additional information to include in a
52	report required by Subsection (b) or (c).
53	Revised Law
54	Art. 2A.206. LAW ENFORCEMENT AGENCIES: REPORT FOR
55	OFFICER-INVOLVED INJURIES OR DEATHS. (a) In this article:
56	(1) "Deadly weapon" means:
57	(A) a firearm or any object manifestly designed,
58	made, or adapted for the purpose of inflicting death or serious
59	bodily injury; or
50	(B) any object that in the manner of its use or

- 1 intended use is capable of causing death or serious bodily injury.
- 2 (2) "Officer-involved injury or death" means an
- 3 incident during which a peace officer discharges a firearm causing
- 4 injury or death to another.
- 5 (b) The attorney general by rule shall create a written and
- 6 electronic form for the reporting by law enforcement agencies of an
- 7 officer-involved injury or death. The form must include spaces to
- 8 report only the following information:
- 9 (1) the date the incident occurred;
- 10 (2) the location where the incident occurred;
- 11 (3) the age, gender, and race or ethnicity of each
- 12 peace officer involved in the incident;
- 13 (4) if known, the age, gender, and race or ethnicity of
- 14 each injured or deceased person involved in the incident;
- 15 (5) whether the person was injured or died as a result
- 16 of the incident;
- 17 (6) whether each injured or deceased person used,
- 18 exhibited, or was carrying a deadly weapon during the incident;
- 19 (7) whether each peace officer involved in the
- 20 incident was on duty during the incident;
- 21 (8) whether each peace officer involved in the
- 22 incident was responding to an emergency call or a request for
- 23 assistance and, if so, whether the officer responded to that call or
- 24 request with one or more other peace officers; and
- 25 (9) whether the incident occurred during or as a
- 26 result of:
- 27 (A) the execution of a warrant; or
- 28 (B) a hostage, barricade, or other emergency
- 29 situation.
- 30 (c) Not later than the 30th day after the date of an
- 31 officer-involved injury or death, the law enforcement agency
- 32 employing an officer involved in the incident shall complete and
- 33 submit a written or electronic report, using the form created under
- 34 Subsection (b), to the attorney general. The report must include

- 1 all information described in Subsection (b).
- 2 (d) Not later than the fifth day after the date of receipt of
- 3 a report submitted under Subsection (c), the attorney general shall
- 4 post a copy of the report on the attorney general's Internet
- 5 website.
- 6 (e) Not later than March 1 of each year, the attorney
- 7 general shall submit a report regarding all officer-involved
- 8 injuries or deaths that occurred during the preceding year to the
- 9 governor and the standing legislative committees with primary
- 10 jurisdiction over criminal justice matters. The report must
- 11 include:
- 12 (1) the total number of officer-involved injuries or
- 13 deaths;

20

21

22

23 24

29

30 31 32

33

34

35

36

37

38

39

40

41

42

43

44

45 46 47

48

49

- 14 (2) a summary of the reports submitted to the attorney
- 15 general under this article; and
- 16 (3) a copy of each report submitted to the attorney
- 17 general under this article. (Code Crim. Proc., Art. 2.139.)

18 <u>Source Law</u>

Art. 2.139. REPORTS REQUIRED FOR OFFICER-INVOLVED INJURIES OR DEATHS. (a) In this article:

(1) "Deadly weapon" means:

- (A) a firearm or any object manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury: or
- of inflicting death or serious bodily injury; or

 (B) any object that in the manner of its use or intended use is capable of causing death or serious bodily injury.
- (2) "Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.
- (b) The office of the attorney general by rule shall create a written and electronic form for the reporting bу law enforcement agencies officer-involved injury or death. The form must include spaces report only the following to information:
- (1) the date on which the incident
 occurred;
- (2) the location where the incident occurred;
- (3) the age, gender, and race or ethnicity of each peace officer involved in the incident;
- (4) if known, the age, gender, and race or ethnicity of each injured or deceased person involved in the incident;
- (5) whether the person was injured or died as a result of the incident;

1 (6) whether each injured or deceased used, 2 exhibited, or was carrying a deadly 3 weapon during the incident; (7) whether each peace officer involved in the incident was on duty during the incident;
(8) whether each peace officer involved in 5 6 7 the incident was responding to an emergency call or a 8 request for assistance and, if so, whether the officer 9 responded to that call or request with one or more 10 other peace officers; and 11 (9) whether the incident occurred during or as a result of: 12 13 (A) the execution of a warrant; or 14 (B) a hostage, barricade, or other 15 emergency situation. Not later than the 30th day after the date of 16 (c) 17 officer-involved injury or death, enforcement agency employing an officer involved in the incident must complete and submit a written or 18 19 20 electronic report, using the form created under Subsection (b), to the office of the attorney general. 21 22 The report must include all information described in 23 Subsection (b). 24 (d) Not later than the fifth day after the date 25 of receipt of a report submitted under Subsection (c), the office of the attorney general shall post a copy of 26 27 the report on the office's Internet website. 28 (e) Not later than March 1 of each year, the office of the attorney general shall submit a report 29 30 regarding all officer-involved injuries or deaths that 31 occurred during the preceding year to the governor and 32 standing legislative committees with 33 jurisdiction over criminal justice matters. The report 34 must include: 35 the total number of officer-involved (1)36 injuries or deaths; 37 (2) a summary of the reports submitted to 38 the office under this article; and a copy of each report submitted to the 39 (3)40 office under this article. 41 Revised Law 42

Art. 2A.207. LAW ENFORCEMENT AGENCIES: REPORT FOR CERTAIN
INJURIES OR DEATHS OF PEACE OFFICERS. (a) The attorney general by
rule shall create a written and electronic form for the reporting by
law enforcement agencies of an incident in which a person who is not
a peace officer discharges a firearm and causes injury or death to a
peace officer who is performing an official duty. The form must
include spaces to report only the following information:

- (1) the date the incident occurred;
- 50 (2) the location where the incident occurred;
- 51 (3) the age, gender, and race or ethnicity of each
- 52 injured or deceased peace officer involved in the incident;
- 53 (4) if known, the age, gender, and race or ethnicity of 54 each person who discharged a firearm and caused injury or death to a

- 1 peace officer involved in the incident; and
- 2 (5) whether the officer or any other person was
- 3 injured or died as a result of the incident.
- 4 (b) Not later than the 30th day after the date of the
- 5 occurrence of an incident described by Subsection (a), the law
- 6 enforcement agency employing the injured or deceased officer at the
- 7 time of the incident shall complete and submit a written or
- 8 electronic report, using the form created under that subsection, to
- 9 the attorney general. The report must include all information
- 10 described in Subsection (a).
- 11 (c) Not later than March 1 of each year, the attorney
- 12 general shall submit a report regarding all incidents described by
- 13 Subsection (a) that occurred during the preceding year to the
- 14 governor and the standing legislative committees with primary
- 15 jurisdiction over criminal justice matters. The report must
- 16 include:

24

25

26 27 28

29

30

31

32

33

34

35

36

37

38

39

40 41

42 43

44

45

- 17 (1) the total number of incidents that occurred;
- 18 (2) a summary of the reports submitted to the attorney
- 19 general under this article; and
- 20 (3) a copy of each report submitted to the attorney
- 21 general under this article. (Code Crim. Proc., Art. 2.1395.)

22 <u>Source Law</u>

- REPORTS Art. 2.1395. REQUIRED FOR CERTAIN INJURIES OR DEATHS OF PEACE OFFICERS. The office (a) of the attorney general by rule shall create a written and electronic form for the reporting by law and electronic form for the reporting by law enforcement agencies of incidents in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and The form must causes injury or death to the officer. include report only the following spaces to information:
- (1) the date on which the incident occurred;
- (2) the location where the incident occurred;
- (3) the age, gender, and race or ethnicity of each injured or deceased peace officer involved in the incident;
- (4) if known, the age, gender, and race or ethnicity of each person who discharged a firearm and caused injury or death to a peace officer involved in the incident; and
- (5) whether the officer or any other person was injured or died as a result of the incident.

- (b) Not later than the 30th day after the date of the occurrence of an incident described by Subsection (a), the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report, using the form created under that subsection, to the office of the attorney general. The report must include all information described in Subsection (a).
- (c) Not later than March 1 of each year, the office of the attorney general shall submit a report regarding all incidents described by Subsection (a) that occurred during the preceding year to the governor and the standing legislative committees with primary jurisdiction over criminal justice matters. The report must include:
- (1) the total number of incidents that occurred;
- (2) a summary of the reports submitted to the office under this article; and
- (3) a copy of each report submitted to the office under this article.

22 Revised Law

1

2

3

8

9 10 11

12

13

14 15

16

17

18 19 20

21

NOTICE OF VIOLATION OF REPORTING REQUIREMENTS 23 Art. 2A.208. 24 FOR CERTAIN INJURIES OR DEATHS; CIVIL PENALTY. (a) The attorney 25 general shall conduct an investigation after receiving a written 26 and signed report, on a form prescribed by the attorney general, 27 asserting that a law enforcement agency failed to submit a report required by Article 2A.206 or 2A.207. 28 If the attorney general 29 determines that the law enforcement agency failed to submit the 30 report, the attorney general shall provide notice of the failure to The notice must summarize the applicable reporting 31 the agency. 32 requirement and state that the agency may be subject to a civil penalty as provided by Subsection (b) or (c), as applicable. 33

- 34 (b) Except as provided by Subsection (c), a law enforcement 35 agency that fails to submit the required report on or before the 36 seventh day after the date of receiving notice under Subsection (a) 37 is liable for a civil penalty in the amount of \$1,000 for each day 38 after the seventh day that the agency fails to submit the report.
- (c) Beginning on the day after the date of receiving notice under Subsection (a), a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty under Subsection (b) or this subsection is liable for a civil penalty for each day the agency fails to submit the required report. The amount of a civil penalty

- 1 under this subsection is \$10,000 for the first day and \$1,000 for
- 2 each additional day that the agency fails to submit the report.
- 3 (d) The attorney general may sue to collect a civil penalty
- 4 under this article.
- 5 (e) A civil penalty collected under this article shall be
- 6 deposited to the credit of the compensation to victims of crime fund
- 7 established under Subchapter J, Chapter 56B. (Code Crim. Proc.,
- 8 Art. 2.13951.)

11

12 13

18 19 20

21 22

23

24

25

26

27

28 29 30

31

32

33

34 35 36

37

38

39

40 41

42

43

44 45

46

47

9 <u>Source Law</u>

Art. 2.13951. NOTICE OF VIOLATION OF REPORTING REQUIREMENTS FOR CERTAIN INJURIES OR DEATHS; CIVIL PENALTY. (a) The office of the attorney general shall conduct an investigation after receiving a written and signed report, on a form prescribed by the office, asserting that a law enforcement agency failed to submit a report required by Article 2.139 or 2.1395. If the office determines that the law enforcement agency failed to submit the report, the office shall provide notice of the failure to the agency. The notice must summarize the applicable reporting requirement and state that the agency may be subject to a civil penalty as provided by Subsection (b) or (c), as applicable.

(b) Except as provided by Subsection (c), a law enforcement agency that fails to submit the required report on or before the seventh day after the date of receiving notice under Subsection (a) is liable for a civil penalty in the amount of \$1,000 for each day after the seventh day that the agency fails to submit the report.

- (c) Beginning on the day after the date of (a), receiving notice under Subsection law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty under Subsection (b) or this subsection is liable for a civil penalty for each day the agency fails to submit the required report. The amount of a civil penalty under this subsection is \$10,000 for the first day and \$1,000 for additional day that the agency fails to submit the report.
- (d) The attorney general may sue to collect a civil penalty under this article.
- (e) A civil penalty collected under this article shall be deposited to the credit of the compensation to victims of crime fund established under Subchapter J, Chapter 56B.

48 Revised Law

- 49 Art. 2A.209. DUTIES OF LAW ENFORCEMENT AGENCY FILING CASE.
- 50 (a) In this article:
- 51 (1) "Attorney representing the state" means an
- 52 attorney authorized by law to represent the state in a criminal

- 1 case, including a district attorney, criminal district attorney, or
- 2 county attorney with criminal jurisdiction. The term does not
- 3 include an attorney representing the state in a justice or
- 4 municipal court under Chapter 45.
- 5 (2) "Law enforcement agency" means an agency of the
- 6 state or an agency of a political subdivision of the state
- 7 authorized by law to employ peace officers.
- 8 (b) A law enforcement agency filing a case with an attorney
- 9 representing the state shall submit to the attorney representing
- 10 the state a written statement by an agency employee with knowledge
- 11 of the case acknowledging that all documents, items, and
- 12 information in the possession of the agency that are required to be
- 13 disclosed to the defendant in the case under Article 39.14 have been
- 14 disclosed to the attorney representing the state.
- 15 (c) If at any time after a case is filed with an attorney
- 16 representing the state the law enforcement agency discovers or
- 17 acquires any additional document, item, or information required to
- 18 be disclosed to the defendant under Article 39.14, an agency
- 19 employee shall promptly disclose the document, item, or information
- 20 to the attorney representing the state. (Code Crim. Proc., Art.
- 21 2.1397.)

24

25

26

27

28

29 30 31

32 33 34

35 36

37

38

39

40

41 42 43

44

45

22 <u>Source Law</u>

Art. 2.1397. DUTIES OF LAW ENFORCEMENT AGENCY FILING CASE. (a) In this article:

- (1) "Attorney representing the state" means an attorney authorized by law to represent the state in a criminal case, including a district attorney, criminal district attorney, or county attorney with criminal jurisdiction. The term does not include an attorney representing the state in a justice or municipal court under Chapter 45.
- (2) "Law enforcement agency" means an agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.
- (b) A law enforcement agency filing a case with the attorney representing the state shall submit to the attorney representing the state a written statement by an agency employee with knowledge of the case acknowledging that all documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case under Article 39.14 have been disclosed to the attorney representing the state.
 - (c) If at any time after the case is filed with

state 1 representing the attorney agency 2 enforcement discovers or acquires any 3 additional document, item, or information required to be disclosed to the defendant under Article 39.14, an agency employee shall promptly disclose the document, 5 item, or information to the attorney representing the 6 7 state.

Revised Law

- 9 Art. 2A.210. JUDGES: REPORTING OF CERTAIN ALIENS TO FEDERAL 10 GOVERNMENT. A judge shall report to United States Immigration and
- 11 Customs Enforcement a person who:
- 12 (1) has been convicted of an offense or placed on
- 13 deferred adjudication community supervision for a felony in the
- 14 judge's court; and

8

18

19

20

21

22 23

24

25

26

2.7

28

29

30

31

32

33

34

35

36

37

38

39

40

- 15 (2) is an illegal criminal alien as defined by Section
- 16 493.015, Government Code. (Code Crim. Proc., Art. 2.25.)

17 <u>Source Law</u>

Art. 2.25. REPORTING CERTAIN ALIENS TO FEDERAL GOVERNMENT. A judge shall report to the United States Immigration and Naturalization Service a person who has been convicted in the judge's court of a crime or has been placed on deferred adjudication for a felony and is an illegal criminal alien as defined by Section 493.015(a), Government Code.

Revisor's Note

- Article 2.25, Code of Criminal Procedure, (1)the "United States Immigration t.o Naturalization Service." In 2003, the Immigration and Naturalization Service was abolished and its functions were transferred to the United States Department of Homeland Security. See Homeland Security Act of 2002 (6 U.S.C. Section 101 et seq.). The department then States created United Immigration and Customs Enforcement to carry out immigration enforcement duties, including the removal of aliens who have been convicted of certain crimes.
 - (2) Article 2.25, Code of Criminal Procedure, refers to a person being placed on "deferred adjudication." The revised law substitutes "deferred adjudication community supervision" for "deferred

adjudication" because in this context the terms are synonymous and "deferred adjudication community supervision" is the term used in Subchapter C, Chapter 42A, Code of Criminal Procedure.

5 Revised Law

Art. 2A.211. CLERKS: HATE CRIME REPORTING. (a) The clerk
of a district or county court in which an affirmative finding under
Article 42.014 is requested shall report that request to the Texas
Judicial Council, along with a statement as to whether the request
was granted by the court and, if so, whether the affirmative finding
was entered in the judgment in the case.

12 (b) The clerk shall make the report required by Subsection 13 (a) not later than the 30th day after the date the judgment is 14 entered in the case. (Code Crim. Proc., Art. 2.211.)

Source Law

Art. 2.211. HATE CRIME REPORTING. In addition to performing duties required by Article 2.21, a clerk of a district or county court in which an affirmative finding under Article 42.014 is requested shall report that request to the Texas Judicial Council, along with a statement as to whether the request was granted by the court and, if so, whether the affirmative finding was entered in the judgment in the case. The clerk shall make the report required by this article not later than the 30th day after the date the judgment is entered in the case.

Revisor's Note

Article 2.211, Code of Criminal Procedure, imposes a reporting duty on clerks "[i]n addition to performing duties required by Article 2.21." The revised law omits the quoted provision because an accepted general principle of statutory construction requires that a statute be given cumulative effect with other statutes unless the statute provides otherwise or unless the statute conflicts with another statute. That general principle applies to the revised law.

Revised Law

39 Art. 2A.212. CLERKS: WRIT OF ATTACHMENT REPORTING. Not

- 1 later than the 30th day after the date a writ of attachment is
- 2 issued in a district court, statutory county court, or county
- 3 court, the clerk of the court shall report to the Texas Judicial
- 4 Council:
- 5 (1) the date the attachment was issued;
- 6 (2) whether the attachment was issued in connection
- 7 with a grand jury investigation, criminal trial, or other criminal
- 8 proceeding;

20 21 22

23

24

25

26

- 9 (3) the name of the person requesting and of the judge
- 10 issuing the attachment; and
- 11 (4) the statutory authority under which the attachment
- 12 was issued. (Code Crim. Proc., Art. 2.212.)

13 <u>Source Law</u>

- Art. 2.212. WRIT OF ATTACHMENT REPORTING. Not later than the 30th day after the date a writ of attachment is issued in a district court, statutory county court, or county court, the clerk of the court shall report to the Texas Judicial Council:
 - (1) the date the attachment was issued;
 - (2) whether the attachment was issued in connection with a grand jury investigation, criminal trial, or other criminal proceeding;
 - (3) the names of the person requesting and the judge issuing the attachment; and
 - (4) the statutory authority under which the attachment was issued.

27 <u>Revised Law</u>

- 28 Art. 2A.213. CLERKS, STATE AGENCIES, AND ATTORNEYS
- 29 REPRESENTING STATE: REPORT TO ATTORNEY GENERAL. (a) On writter
- 30 request by the attorney general, the clerk of a district or county
- 31 court shall report to the attorney general information in court
- 32 records that relates to a criminal matter, including information
- 33 requested for purposes of federal habeas review. The clerk shall
- 34 provide the report:
- 35 (1) not later than the 10th day after the date the
- 36 request is received; and
- 37 (2) in the form prescribed by the attorney general.
- 38 (b) On written request by the attorney general, a state
- 39 agency or the office of an attorney representing the state shall
- 40 provide to the attorney general any record that is needed for

1	purposes of federal habeas review. The agency or office shall
2	provide the record:
3	(1) not later than the 10th day after the date the
4	request is received; and
5	(2) in the form prescribed by the attorney general.
6	(c) A district court, county court, state agency, or office
7	of an attorney representing the state may not restrict or delay the
8	reproduction or delivery of a record requested by the attorney
9	general under this article. (Code Crim. Proc., Art. 2.23.)
10	Source Law
11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32	Art. 2.23. REPORT TO ATTORNEY GENERAL. (a) The clerks of the district and county courts shall, when requested in writing by the Attorney General, report to the Attorney General not later than the 10th day after the date the request is received, and in the form prescribed by the Attorney General, information in court records that relates to a criminal matter, including information requested by the Attorney General for purposes of federal habeas review. (b) A state agency or the office of an attorney representing the state shall, when requested in writing by the Attorney General, provide to the Attorney General any record that is needed for purposes of federal habeas review. The agency or office must provide the record not later than the 10th day after the date the request is received and in the form prescribed by the Attorney General. (c) A district court, county court, state agency, or office of an attorney representing the state may not restrict or delay the reproduction or delivery of a record requested by the Attorney General under this article.
33	CHAPTER 2B. LAW ENFORCEMENT INTERACTIONS WITH PUBLIC
34	SUBCHAPTER A. GENERAL PROVISIONS
35	Art. 2B.0001. DEFINITIONS
36	SUBCHAPTER B. RACIAL PROFILING; MOTOR VEHICLE STOPS
37	Art. 2B.0051. DEFINITIONS
38	Art. 2B.0052. RACIAL PROFILING PROHIBITED 91
39	Art. 2B.0053. LAW ENFORCEMENT POLICY ON RACIAL
40	PROFILING
41	Art. 2B.0054. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS 94
42	Art. 2B.0055. COMPILATION AND ANALYSIS OF INFORMATION
43	COLLECTED
44	Δr + 2B 0056 PRIMA FACIF FVIDENCE 100

1	Art. 2B.0057.	LIABILITY
2	Art. 2B.0058.	CIVIL PENALTY
3	Art. 2B.0059.	RULES
4		SUBCHAPTER C. BODY WORN CAMERA PROGRAM
5	Art. 2B.0101.	DEFINITIONS
6	Art. 2B.0102.	GRANTS FOR BODY WORN CAMERAS
7	Art. 2B.0103.	GRANTS FOR BODY WORN CAMERA DATA STORAGE106
8	Art. 2B.0104.	REPORTING
9	Art. 2B.0105.	INTERAGENCY OR INTERLOCAL CONTRACTS 107
10	Art. 2B.0106.	BODY WORN CAMERA POLICY
11	Art. 2B.0107.	TRAINING
12	Art. 2B.0108.	RECORDING INTERACTIONS WITH PUBLIC110
13	Art. 2B.0109.	USE OF PERSONAL EQUIPMENT
14	Art. 2B.0110.	OFFENSE
15	Art. 2B.0111.	RECORDINGS AS EVIDENCE
16	Art. 2B.0112.	RELEASE OF INFORMATION RECORDED BY BODY
17		WORN CAMERA
18	Art. 2B.0113.	BODY WORN CAMERA RECORDINGS; REQUEST FOR
19		ATTORNEY GENERAL DECISION REGARDING
20		PUBLIC INFORMATION
21	Art. 2B.0114.	PRODUCTION OF BODY WORN CAMERA RECORDING
22		IN RESPONSE TO VOLUMINOUS PUBLIC
23		INFORMATION REQUESTS
24	SUBCHAPTER D	. VIDEO AND AUDIO EQUIPMENT AND RECORDINGS OF MOTOR
25		VEHICLE STOPS
26	Art. 2B.0151.	FEASIBILITY OF VIDEO AND AUDIO EQUIPMENT
27		AND RECORDINGS FOR MOTOR VEHICLE STOPS118
28	Art. 2B.0152.	PROVISION OF MONEY OR EQUIPMENT119
29	Art. 2B.0153.	RULES
30	Art. 2B.0154.	VIDEO RECORDINGS OF ARRESTS FOR
31		INTOXICATION OFFENSES
32	SUBCHAPTER E	. ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS
33	7r+ 2B 0201	DEFINITUTONS 123

1	Art. 2B.0202. RECORDING OF CUSTODIAL INTERROGATION
2	REQUIRED; EXCEPTIONS
3	Art. 2B.0203. PUBLIC DISCLOSURE
4	SUBCHAPTER F. USE OF FORCE
5	Art. 2B.0251. INTERVENTION REQUIRED FOR EXCESSIVE
6	FORCE; REPORT REQUIRED
7	Art. 2B.0252. USE OF NECK RESTRAINTS DURING SEARCH OR
8	ARREST PROHIBITED
9	Art. 2B.0253. LAW ENFORCEMENT POLICY ON USE OF FORCE
10	BY DRONE
11	SUBCHAPTER G. DUTY TO REQUEST AND RENDER AID
12	Art. 2B.0301. DUTY TO REQUEST AND RENDER AID
13	CHAPTER 2B. LAW ENFORCEMENT INTERACTIONS WITH PUBLIC
14	SUBCHAPTER A. GENERAL PROVISIONS
15	Revised Law
16	Art. 2B.0001. DEFINITIONS. In this chapter:
17	(1) "Commission" means the Texas Commission on Law
18	Enforcement.
19	(2) "Department" means the Department of Public Safety
20	of the State of Texas. (Occ. Code, Sec. 1701.651(2); New.)
21	Source Law
22	Sec. 1701.651. DEFINITIONS. In this subchapter:
23 24	(2) "Department" means the Department of Public Safety of the State of Texas.
25	Revisor's Note
26	Section 1701.001(1), Occupations Code, defines
27	"commission" as the Texas Commission on Law
28	Enforcement for purposes of Chapter 1701, Occupations
29	Code, revised in part as this chapter. Section
30	1701.651(2), Occupations Code, defines "department"
31	as the Department of Public Safety of the State of
32	Texas for purposes of Subchapter N, Chapter 1701,
33	Occupations Code, revised as Subchapter C of this
34	chapter. However, there are references to the full

- 1 names of both the Department of Public Safety of the
- 2 State of Texas and the Texas Commission on Law
- 3 Enforcement in Articles 2.132, 2.134, 2.137, and
- 4 2.138, revised in Subchapters B and D of this chapter.
- 5 For drafting convenience and to eliminate frequent,
- 6 unnecessary repetition of the full names of these
- 7 agencies, the revised law adds a definition of
- 8 "commission" to the revised law and makes the
- 9 definitions of "department" and "commission"
- 10 applicable to the entire revised chapter.
- 11 SUBCHAPTER B. RACIAL PROFILING; MOTOR VEHICLE STOPS
- 12 Revised Law
- Art. 2B.0051. DEFINITIONS. In this subchapter:
- 14 (1) "Bodily injury" has the meaning assigned by
- 15 Section 1.07, Penal Code.
- 16 (2) "Motor vehicle stop" means an occasion in which a
- 17 peace officer stops a motor vehicle for an alleged violation of a
- 18 law or ordinance.
- 19 (3) "Race or ethnicity" means the following
- 20 categories:
- 21 (A) Alaska native or American Indian;
- 22 (B) Asian or Pacific Islander;
- 23 (C) black;
- 24 (D) Hispanic or Latino; and
- 25 (E) white.
- 26 (4) "Racial profiling" means a law
- 27 enforcement-initiated action based on an individual's race,
- 28 ethnicity, or national origin rather than on the individual's
- 29 behavior or on information identifying the individual as having
- 30 engaged in criminal activity. (Code Crim. Proc., Arts.
- 31 2.132(a)(2), (3), (b) (part), 2.133(a), (b) (part), 2.134(a),
- 32 3.05.)
- 33 <u>Source Law</u>
- 34 Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL

1	PROFILING. (a) In this article:
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	(2) "Motor vehicle stop" means an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance. (3) "Race or ethnicity" means the following categories: (A) Alaska native or American Indian; (B) Asian or Pacific Islander; (C) black; (D) white; and (E) Hispanic or Latino. (b) (6) (D) bodily injury, as that term is defined by Section 1.07, Penal Code,; Art. 2.133. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS. (a) In this article, "race or ethnicity" has the meaning assigned by Article 2.132(a). (b) (9) bodily injury, as that term is defined by Section 1.07, Penal Code, Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article: (1) "Motor vehicle stop" has the meaning assigned by Article 2.132(a). (2) "Race or ethnicity" has the meaning assigned by Article 2.132(a).
29 30 31 32 33 34	Art. 3.05. RACIAL PROFILING. In this code, "racial profiling" means a law enforcement-initiated action based on an individual's race, ethnicity, or national origin rather than on the individual's behavior or on information identifying the individual as having engaged in criminal activity.
35	Revisor's Note

- 2.132(a), (1) Article Code of Criminal Procedure, provides definitions of "motor vehicle stop" and "race or ethnicity" for purposes of that article. Articles 2.133 and 2.134 of that code, which include those terms and are revised in this subchapter, contain cross-references to the appropriate definition in Article 2.132(a). To avoid the unnecessary repetition of those cross-references, the revised law provides that the terms are applicable to Subchapter B of this chapter.
- (2) In Articles 2.132 and 2.133, Code Criminal Procedure, the phrase "bodily injury, as that term is defined by Section 1.07, Penal Code," is used. The term "bodily injury" is not used elsewhere in the The revised law adds a definition of source law.

1111111222222222

36

37

38

39

40

41

42

43

44

45

46

47

48

49

- "bodily injury" applicable to Subchapter B of this
 chapter in which Articles 2.132 and 2.133 are revised
 to prevent the unnecessary repetition of the
 cross-references for that definition within the
- Article 3.05, Code of Criminal Procedure, 6 7 provides a definition of "racial profiling" applicable to the Code of Criminal Procedure. The revised law 8 substitutes "this subchapter" for "this code" because 9 the term is used only in Articles 2.131, 2.132(b) and 10 (c), and 2.134(c) and (f), Code of Criminal Procedure, 11 which are revised in this subchapter as Articles 12 2B.0051, 2B.0052, 2B.0053, 2B.0055, and 2B.0056. 13

14 <u>Revi</u>sed Law

substance of the revised law.

- 15 Art. 2B.0052. RACIAL PROFILING PROHIBITED. A peace officer
- 16 may not engage in racial profiling. (Code Crim. Proc., Art. 2.131.)
- 17 Source Law
- Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.
- 20 Revised Law
- 21 Art. 2B.0053. LAW ENFORCEMENT POLICY ON RACIAL PROFILING.
- 22 (a) In this article, "law enforcement agency" means an agency of
- 23 this state, or of a county, municipality, or other political
- 24 subdivision of this state, that employs peace officers who make
- 25 motor vehicle stops in the routine performance of the officers'
- 26 official duties.

- (b) Each law enforcement agency shall adopt a detailed
- 28 written policy on racial profiling. The policy must:
- 29 (1) clearly define acts constituting racial
- 30 profiling;
- 31 (2) strictly prohibit peace officers employed by the
- 32 agency from engaging in racial profiling;
- 33 (3) implement a process by which an individual may
- 34 file a complaint with the agency if the individual believes that a

- 1 peace officer employed by the agency has engaged in racial
- 2 profiling with respect to the individual;
- 3 (4) provide public education relating to the agency's
- 4 compliment and complaint process, including providing the
- 5 telephone number, mailing address, and e-mail address to make a
- 6 compliment or complaint with respect to each ticket, citation, or
- 7 warning issued by a peace officer;
- 8 (5) require the agency employing a peace officer to
- 9 take appropriate corrective action against the peace officer after
- 10 an investigation shows that the peace officer has engaged in racial
- 11 profiling in violation of the agency's policy adopted under this
- 12 article;
- 13 (6) require collection of information relating to
- 14 motor vehicle stops in which a ticket, citation, or warning is
- 15 issued and to arrests made as a result of those stops, including
- 16 information relating to:
- 17 (A) the race or ethnicity of the individual
- 18 detained;
- 19 (B) whether a search was conducted and, if so,
- 20 whether the individual detained consented to the search;
- (C) whether the peace officer knew the race or
- 22 ethnicity of the individual detained before detaining that
- 23 individual;
- 24 (D) whether the peace officer used physical force
- 25 that resulted in bodily injury during the stop;
- 26 (E) the location of the stop; and
- 27 (F) the reason for the stop; and
- 28 (7) require the chief administrator of the agency,
- 29 regardless of whether the administrator is elected, employed, or
- 30 appointed, to submit an annual report of the information collected
- 31 under Subdivision (6) to:
- 32 (A) the commission; and
- 33 (B) the governing body of each county or
- 34 municipality served by the agency, if the agency is an agency of a

- 1 county, municipality, or other political subdivision of this state.
- 2 (c) On the commencement of an investigation by a law
- 3 enforcement agency of a complaint described by Subsection (b)(3) in
- 4 which there is a video or audio recording of the occurrence that is
- 5 the basis for the complaint, the agency shall promptly provide a
- 6 copy of the recording to the peace officer who is the subject of the
- 7 complaint on written request by the officer for a copy of the
- 8 recording.
- 9 (d) A law enforcement agency shall review the data collected
- 10 under Subsection (b)(6) to identify any improvements the agency
- 11 could make in the agency's practices and policies regarding motor
- 12 vehicle stops.
- (e) A report required under Subsection (b)(7) may not
- 14 include identifying information about a peace officer who makes a
- 15 motor vehicle stop or about an individual who is stopped or arrested
- 16 by a peace officer. This subsection does not affect the collection
- of information required by a policy under Subsection (b)(6).
- 18 (f) The commission shall begin disciplinary procedures
- 19 against the chief administrator of a law enforcement agency if the
- 20 commission finds that the chief administrator intentionally failed
- 21 to submit a report required under Subsection (b)(7). (Code Crim.
- 22 Proc., Arts. 2.132(a)(1), (b) (part), (e), (f), (g), (h).)

23 Source Law

- 24 (a) In this article:
 - (1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make motor vehicle stops in the routine performance of the officers' official duties.
 - (b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:
 - (1) clearly define acts constituting racial profiling;
- 35 (2) strictly prohibit peace officers 36 employed by the agency from engaging in racial 37 profiling;
 - (3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;
 - (4) provide public education relating to

25

26

27 28

29

30

31

32 33

34

38

39

40

41

the agency's compliment and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

(A) the race or ethnicity of the individual detained;

(B) whether a search was conducted and, if so, whether the individual detained consented to the search;

(C) whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;

(D) whether the peace officer used physical force that resulted in bodily injury, . . . during the stop;

(E) the location of the stop; and

(F) the reason for the stop; and

(7) require the chief administrator of the agency, regardless of whether the administrator is elected, employed, or appointed, to submit an annual report of the information collected under Subdivision (6) to:

(A) the Texas Commission on Law Enforcement; and

(B) the governing body of each county or municipality served by the agency, if the agency is an agency of a county, municipality, or other political subdivision of the state.

- (e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).
- (f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.
- (g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b)(7), the commission shall begin disciplinary procedures against the chief administrator.
- (h) A law enforcement agency shall review the data collected under Subsection (b)(6) to identify any improvements the agency could make in its practices and policies regarding motor vehicle stops.

Revised Law

Art. 2B.0054. REPORTS REQUIRED FOR MOTOR VEHICLE STOPS.

- 1 (a) A peace officer who makes a motor vehicle stop shall report to
- 2 the law enforcement agency that employs the officer information
- 3 relating to the stop, including:
- 4 (1) a physical description of any individual operating
- 5 the motor vehicle who is detained as a result of the stop,
- 6 including:
- 7 (A) the individual's gender; and
- 8 (B) the individual's race or ethnicity, as stated
- 9 by the individual or, if the individual does not state the
- 10 individual's race or ethnicity, as determined by the officer to the
- 11 best of the officer's ability;
- 12 (2) the initial reason for the stop;
- 13 (3) whether the officer conducted a search as a result
- 14 of the stop and, if so:
- 15 (A) whether the individual detained consented to
- 16 the search;
- 17 (B) the reason for the search, including whether:
- 18 (i) any contraband or other evidence was in
- 19 plain view;
- 20 (ii) any probable cause or reasonable
- 21 suspicion existed to perform the search; or
- 22 (iii) the search was performed because the
- 23 motor vehicle was towed or because of the arrest of any individual
- 24 in the motor vehicle; and
- (C) whether any contraband or other evidence was
- 26 discovered during the search and a description of the contraband or
- 27 evidence;
- 28 (4) whether the officer made an arrest as a result of
- 29 the stop or the search and, if so, a statement of:
- 30 (A) whether the arrest was based on:
- 31 (i) a violation of the Penal Code;
- 32 (ii) a violation of a traffic law or
- 33 ordinance; or
- 34 (iii) an outstanding warrant; and

1	(B) the offense charged;
2	(5) the street address or approximate location of the
3	stop;
4	(6) whether the officer issued a verbal or written
5	warning or a ticket or citation as a result of the stop; and
6	(7) whether the officer used physical force that
7	resulted in bodily injury during the stop.
8	(b) The chief administrator of a law enforcement agency,
9	regardless of whether the administrator is elected, employed, or
10	appointed, is responsible for auditing reports under Subsection (a)
11	to ensure that the race or ethnicity of the individual operating the
12	motor vehicle is reported. (Code Crim. Proc., Arts. 2.133(b)
13	(part), (c).)
14	Source Law
15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35	(b) A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including: (1) a physical description of any person operating the motor vehicle who is detained as a result of the stop, including: (A) the person's gender; and (B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability; (2) the initial reason for the stop; (3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search; (4) whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence; (5) the reason for the search, including whether:
36 37	<pre>(A) any contraband or other evidence was in plain view;</pre>
38 39	(B) any probable cause or reasonable suspicion existed to perform the search; or
40	(C) the search was performed as a
41 42	result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
43 44	(6) whether the officer made an arrest as a result of the stop or the search, including a statement
45	of whether the arrest was based on a violation of the
46 47	Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the
48	offense charged;
49 50	(7) the street address or approximate location of the stop;
51 52 53	(8) whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and

- (9) whether the officer used physical force that resulted in bodily injury, . . . during the stop.
- (c) The chief administrator of a law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, is responsible for auditing reports under Subsection (b) to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Revisor's Note

- 2.133(b), Code of (1)Article Criminal Procedure, refers to a "peace officer who stops a motor for alleged violation of vehicle an а law ordinance." Revised Article 2B.0051(2) provides a definition of "motor vehicle stop" that is applicable throughout the subchapter as "an occasion in which a peace officer stops a motor vehicle for an alleged violation of a law or ordinance." Because "motor vehicle stop" is defined for the subchapter and the language of Article 2.133 duplicates the substantive definition, the revised law only references a "motor vehicle stop."
- (2) Article 2.133(c), Code of Criminal Procedure, refers to a "person" operating a motor Throughout this chapter, the revised law substitutes "individual" for "person" for clarity and consistency because, in context, it is clear that the referenced person is a natural person and not an entity described by the definition of "person" provided by Section 311.005, Government Code (Code Construction Act). The Code Construction Act is applicable to the revised law and any other provision of the Code of Criminal Procedure enacted under Section 43, Article III, Texas Constitution (authorizing the continuing statutory revision program), in the same manner as to an entire code enacted under the continuing statutory revision program, except as otherwise expressly provided by the Code of Criminal Procedure. See

1

2

3 4

5 6 7

8

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

2.8

29

30

31

32

33

34

35

36

37

- 1 Section 6.02(a), Chapter 1058 (H.B. 2931), Acts of the
- 2 85th Legislature, Regular Session, 2017.
- 3 Revised Law
- 4 Art. 2B.0055. COMPILATION AND ANALYSIS OF INFORMATION
- 5 COLLECTED. (a) A law enforcement agency shall compile and analyze
- 6 the information contained in each report received by the agency
- 7 under Article 2B.0054.
- 8 (b) Not later than March 1 of each year, each law
- 9 enforcement agency shall submit a report containing the
- 10 incident-based data compiled during the previous calendar year to:
- 11 (1) the commission; and
- 12 (2) the governing body of each county or municipality
- 13 served by the agency, if the law enforcement agency is a local law
- 14 enforcement agency.
- 15 (c) A report required under Subsection (b) must be submitted
- 16 by the chief administrator of the law enforcement agency,
- 17 regardless of whether the administrator is elected, employed, or
- 18 appointed. The report must include:
- 19 (1) a comparative analysis of the information compiled
- 20 under Article 2B.0054 to:
- (A) evaluate and compare the number of motor
- 22 vehicle stops, within the applicable jurisdiction, of:
- (i) individuals recognized as members of
- 24 racial or ethnic minority groups; and
- 25 (ii) individuals not recognized as members
- 26 of racial or ethnic minority groups;
- 27 (B) examine the disposition of motor vehicle
- 28 stops made by officers employed by the agency, categorized
- 29 according to the race or ethnicity of the individuals affected, as
- 30 appropriate, including any searches resulting from stops within the
- 31 applicable jurisdiction; and
- 32 (C) evaluate and compare the number of searches
- 33 resulting from motor vehicle stops within the applicable
- 34 jurisdiction and whether contraband or other evidence was

- 1 discovered during those searches; and
- 2 (2) information relating to each complaint filed with
- 3 the agency alleging that a peace officer employed by the agency has
- 4 engaged in racial profiling.
- 5 (d) A report required under Subsection (b) may not include
- 6 identifying information about a peace officer who makes a motor
- 7 vehicle stop or about an individual who is stopped or arrested by a
- 8 peace officer. This subsection does not affect the reporting of
- 9 information required under Article 2B.0054(a)(1).
- 10 (e) The commission, in accordance with Section 1701.162,
- 11 Occupations Code, shall develop guidelines for compiling and
- 12 reporting information as required by this article.
- 13 (f) The commission shall begin disciplinary procedures
- 14 against the chief administrator of a law enforcement agency if the
- 15 commission finds that the chief administrator intentionally failed
- 16 to submit a report required under Subsection (b). (Code Crim.
- 17 Proc., Arts. 2.134(b), (c), (d), (e), (g).)

18 <u>Source Law</u>

- (b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under Article 2.133. Not later than March 1 of each year, each law enforcement agency shall submit a report containing the incident-based data compiled during the previous calendar year to the Texas Commission on Law Enforcement and, if the law enforcement agency is a local law enforcement agency, to the governing body of each county or municipality served by the agency.
- (c) A report required under Subsection (b) must be submitted by the chief administrator of the law enforcement agency, regardless of whether the administrator is elected, employed, or appointed, and must include:
- (1) a comparative analysis of the information compiled under Article 2.133 to:
- (A) evaluate and compare the number of motor vehicle stops, within the applicable jurisdiction, of persons who are recognized as racial or ethnic minorities and persons who are not recognized as racial or ethnic minorities;
- (B) examine the disposition of motor vehicle stops made by officers employed by the agency, categorized according to the race or ethnicity of the affected persons, as appropriate, including any searches resulting from stops within the applicable jurisdiction; and
- (C) evaluate and compare the number of searches resulting from motor vehicle stops within the applicable jurisdiction and whether contraband or

19

20

21 22

23

28

29

30

31

32 33

34

35

36

37

38

39

40 41

42

43

44 45 46

47

other evidence was discovered in the course of those searches; and

- (2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.
- (d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).
- (e) The Texas Commission on Law Enforcement, in accordance with Section 1701.162, Occupations Code, shall develop guidelines for compiling and reporting information as required by this article.
- (g) On a finding by the Texas Commission on Law Enforcement that the chief administrator of a law enforcement agency intentionally failed to submit a report required under Subsection (b), the commission shall begin disciplinary procedures against the chief administrator.

23 <u>Revised Law</u>

24 Art. 2B.0056. PRIMA FACIE EVIDENCE. The data collected as a 25 result of the reporting requirements of Articles 2B.0053 and 2B.0055 does not constitute prima facie evidence of racial 27 profiling. (Code Crim. Proc., Arts. 2.132(c), 2.134(f).)

28 Source Law

29 [Art. 2.132]

1

2

3

5

6

8

9 10 11

12

13

14 15

16

22

30

31

32

- (c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.
- 33 [Art. 2.134]
- (f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

37 Revisor's Note

Article 2.132(c), Code of Criminal Procedure, 38 refers to "[t]he data collected as a result of the 39 40 reporting requirements of this article." Article 2.132 is revised as this article and Articles 2B.0051, 41 2B.0053, and 2B.0151. Because the parts of Article 42 2.132 revised as 2B.0053 are the only part of that 43 article relating to data collection, it is unnecessary 44 45 in this context to include a cross-reference to 46 Article 2B.0051 or 2B.0151. The revised law is drafted 47 accordingly.

Revised Law

Art. 2B.0057. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2B.0054 or under a policy adopted under Article 2B.0053. (Code Crim. Proc., Art. 2.136.)

6 Source Law

1

11

12

13

14

15

16

17

18

19

20

21

22

23

24

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Revisor's Note

Article 2.136, Code of Criminal Procedure, refers to the collection or reporting of information as required by Article 2.133 of that code or under a policy adopted under Article 2.132 of that code. The relevant part of Article 2.133, Code of Criminal Procedure, related to the reporting of information is revised as Article 2B.0054 of this chapter and the relevant part of Article 2.132 related to a policy and the collection and reporting of information under that policy is revised as Article 2B.0053 of this chapter. The revised law is drafted accordingly.

<u>Revised Law</u>

- 25 Art. 2B.0058. CIVIL PENALTY. (a) Ιf the chief 26 administrator of a local law enforcement agency intentionally fails 27 to submit the incident-based data required by Article 2B.0055, the 28 agency is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. The attorney general may sue to 29 30 collect a civil penalty under this subsection.
- 31 From money appropriated to the agency the 32 administration of the agency, the executive director of a state law agency that intentionally fails to 33 enforcement submit the 34 incident-based data required by Article 2B.0055 shall remit to the comptroller the amount of \$1,000 for each violation. 35
- 36 (c) Money collected under this article shall be deposited in

- 1 the state treasury to the credit of the general revenue fund. (Code
- 2 Crim. Proc., Art. 2.1385.)

5

6 7

8

9

10

11

12 13

14

15 16

17 18

19

20

32

3 <u>Source Law</u>

- Art. 2.1385. CIVIL PENALTY. (a) If the chief administrator of a local law enforcement agency intentionally fails to submit the incident-based data as required by Article 2.134, the agency is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. The attorney general may sue to collect a civil penalty under this subsection.
- (b) From money appropriated to the agency for the administration of the agency, the executive director of a state law enforcement agency that intentionally fails to submit the incident-based data as required by Article 2.134 shall remit to the comptroller the amount of \$1,000 for each violation.
- (c) Money collected under this article shall be deposited in the state treasury to the credit of the general revenue fund.

21 Revisor's Note

Article 2.1385, Code of Criminal Procedure, 2.2 2.3 refers to a data submission requirement under Article 24 2.134 of that code. Article 2.134, Code of Criminal 25 Procedure, is revised as Articles 2B.0055 and 2B.0056 of this chapter. Because the part of Article 2.134 26 27 revised as Article 2B.0055 is the only part of that 28 article relating to a requirement to submit data, it is 29 unnecessary in this context to include cross-reference to Article 2B.0056 of this chapter. 30 The revised law is drafted accordingly. 31

<u>Revised Law</u>

33 Art. 2B.0059. RULES. The department may adopt rules to 34 implement Articles 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056, 35 and 2B.0057. (Code Crim. Proc., Art. 2.138.)

36 Source Law

37 Art. 2.138. RULES. The Department of Public 38 Safety may adopt rules to implement Articles 39 2.131-2.137.

40 Revisor's Note

Article 2.138, Code of Criminal Procedure,

authorizes the Department of Public Safety to adopt

rules to implement Articles 2.131-2.137. Those

articles are revised as Articles 2B.0051, 2B.0052, 1 2B.0053, 2B.0054, 2B.0055, 2B.0056, 2B.0057, 2B.0151, 2 and 2B.0152 of this chapter. It is unnecessary to 3 4 include a reference to Article 2B.0051 because that article includes only definitions that would not be 5 the subject of rulemaking. It is also unnecessary to 6 provide a reference to Articles 2B.0151 and 2B.0152 7 because the rulemaking authority for those articles is 8 revised as Article 2B.0153 of this chapter. The 9 revised law is drafted to include references only to 10 Articles 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056, 11 and 2B.0057 of this chapter. 12

SUBCHAPTER C. BODY WORN CAMERA PROGRAM

14 Revised Law

- Art. 2B.0101. DEFINITIONS. In this subchapter:
- 16 (1) "Body worn camera" means a recording device that 17 is:
- (A) capable of recording, or transmitting to be
- 19 recorded remotely, video or audio; and
- 20 (B) worn on the person of a peace officer, which
- 21 includes being attached to the officer's clothing or worn as
- 22 glasses.

13

- 23 (2) "Officer" and "peace officer" have the meanings
- 24 assigned by Section 1701.001, Occupations Code.
- 25 (3) "Private space" means a location in which an
- 26 individual has a reasonable expectation of privacy, including an
- 27 individual's home. (Occ. Code, Secs. 1701.651(1), (3); New.)

28 Source Law

- Sec. 1701.651. DEFINITIONS. In this
- 30 subchapter:
- 31 (1) "Body worn camera" means a recording
- 32 device that is:
- 33 (A) capable of recording, or transmitting to be recorded remotely, video or audio;
- 35 and
- 36 (B) worn on the person of a peace 37 officer, which includes being attached to the
- officer's clothing or worn as glasses.

(3) "Private space" means a location in which a person has a reasonable expectation of privacy, including a person's home.

Revisor's Note

Section 1701.001, Occupations Code, provides definitions for purposes of Chapter 1701, Occupations Code. Among the terms defined in that section, only the terms "commission," "officer," and "peace officer" are used in Subchapter N, Occupations Code, revised as this subchapter. The definition of "commission" is included in Article 2B.0001 of this chapter. Accordingly, the revised law adds cross-references only to the definitions of "officer" and "peace officer" in Section 1701.001, Occupations Code.

Revised Law

- Art. 2B.0102. GRANTS FOR BODY WORN CAMERAS. (a) A police department of a municipality in this state, a sheriff of a county in this state who has received the approval of the commissioners court for the purpose, or the department may apply to the governor's office for a grant to defray the cost of implementing this subchapter and to equip peace officers with body worn cameras if that law enforcement agency employs officers who:
- 23 (1) engage in traffic or highway patrol or otherwise 24 regularly detain or stop motor vehicles; or
- 25 (2) are primary responders who respond directly to 26 calls for assistance from the public.
- 27 (b) The governor's office shall set deadlines for 28 applications for grants under this subchapter.
- (c) Except as provided by Subsection (d), the governor's office shall create and implement a matching grant program under which matching funds from federal, state, local, and other funding sources may be required as a condition of the grant. A law enforcement agency that receives a grant under this article is required to match 25 percent of the grant money.
- 35 (d) The department is eligible for grants under this

1

2

3

4

5

6

7

8

9

10

11

12

13

14

- 1 subchapter but is not subject to any requirement for matching
- 2 funds.

- 3 (e) The governor's office may conditionally award a grant to
- 4 a law enforcement agency that has not adopted and implemented the
- 5 policy under Article 2B.0106 or implemented the training required
- 6 under Article 2B.0107. Money may not be disbursed to the law
- 7 enforcement agency until the agency fully complies with those
- 8 articles. (Occ. Code, Sec. 1701.652.)

9 <u>Source Law</u>

Sec. 1701.652. GRANTS FOR BODY WORN CAMERAS. (a) A police department of a municipality in this state, a sheriff of a county in this state who has received the approval of the commissioners court for the purpose, or the department may apply to the office of the governor for a grant to defray the cost of implementing this subchapter and to equip peace officers with body worn cameras if that law enforcement agency employs officers who:

(1) are engaged in traffic or highway patrol or otherwise regularly detain or stop motor

vehicles; or

(2) are primary responders who respond directly to calls for assistance from the public.

(b) The office of the governor shall set deadlines for applications for grants under this chapter.

- (c) Except as provided by Subsection (d), the office of the governor shall create and implement a matching grant program under which matching funds from federal, state, local, and other funding sources may be required as a condition of the grant. A law enforcement agency that receives a grant under this section is required to match 25 percent of the grant money.
- (d) The department is eligible for grants under this subchapter but may not be made subject to any requirement for matching funds.
- (e) The governor's office may conditionally award a grant to a law enforcement agency that has not adopted and implemented the policy under Section 1701.655 or implemented the training required under Section 1701.656, but money may not be disbursed to a law enforcement agency until the agency fully complies with those sections.

Revisor's Note

Section 1701.652(b), Occupations Code, requires the governor's office to set deadlines for applications for grants "under this chapter." The revised law substitutes "subchapter" for "chapter" because it is clear from the context that the word "chapter" is a drafting error and the grants referred

- to in Subsection (b) of that section are grants under

 Subchapter N, Chapter 1701, Occupations Code, revised
- 3 as this subchapter. See other references within
- 4 Subchapter N, Chapter 1701, Occupations Code, to
- 5 grants under "this subchapter" in Sections 1701.652(d)
- and 1701.653(a), Occupations Code.

7 Revised Law

- 8 Art. 2B.0103. GRANTS FOR BODY WORN CAMERA DATA
- 9 STORAGE. (a) A law enforcement agency in this state that provides
- 10 body worn cameras to its peace officers may apply to the office of
- 11 the governor for a grant to defray the cost of data storage for
- 12 recordings created with the body worn cameras.
- 13 (b) The grant program established by this article may be
- 14 funded by federal funds or by gifts, grants, and donations. (Occ.
- 15 Code, Sec. 1701.6521.)

16 <u>Source Law</u>

- Sec. 1701.6521. GRANTS FOR BODY WORN CAMERA DATA STORAGE. (a) A law enforcement agency in this state that provides body worn cameras to its peace officers may apply to the office of the governor for a grant to defray the cost of data storage for recordings created with the body worn cameras.
- 23 (b) The grant program established by this 24 section may be funded by federal funds or by gifts, 25 grants, and donations.

26 <u>Revised Law</u>

- 27 Art. 2B.0104. REPORTING. (a) As a condition of receiving a
- 28 grant under this subchapter, a law enforcement agency shall report
- 29 to the commission annually regarding the costs of implementing a
- 30 body worn camera program, including all known equipment costs and
- 31 costs for data storage.
- 32 (b) The commission shall compile the information submitted
- 33 under Subsection (a) into a report and submit the report to the
- 34 governor's office and the legislature not later than December 1 of
- 35 each year. (Occ. Code, Sec. 1701.653.)

36 Source Law

37 Sec. 1701.653. REPORTING. (a) As a condition 38 of receiving a grant under this subchapter, a law 39 enforcement agency annually shall report to the

- 1 commission regarding the costs of implementing a body 2 worn camera program, including all known equipment 3 costs and costs for data storage.
- 3 costs and costs for data storage.
 4 (b) The commission s
- 4 (b) The commission shall compile the 5 information submitted under Subsection (a) into a 6 report and submit the report to the office of the 7 governor and the legislature not later than December 1
- 8 of each year.

9 Revised Law

- 10 Art. 2B.0105. INTERAGENCY OR INTERLOCAL CONTRACTS. A law
- 11 enforcement agency in this state may enter into an interagency or
- 12 interlocal contract to receive body worn camera services and have
- 13 the identified operations performed through a program established
- 14 by the Department of Information Resources. (Occ. Code, Sec.
- 15 1701.654.)

16 <u>Source Law</u>

- 17 Sec. 1701.654. INTERAGENCY OR INTERLOCAL CONTRACTS. A law enforcement agency in this state may 18 19 enter into an interagency or interlocal contract to 20 worn camera services receive body and have operations performed through a program 21 identified Department established 22 bу the of Information 23 Resources.
- 24 Revised Law
- 25 Art. 2B.0106. BODY WORN CAMERA POLICY. (a) A law
- 26 enforcement agency that receives a grant to provide body worn
- 27 cameras to the agency's peace officers or that otherwise operates a
- 28 body worn camera program shall adopt a policy for the use of body
- 29 worn cameras.
- 30 (b) A policy described by Subsection (a) must ensure that a
- 31 body worn camera is activated only for a law enforcement purpose and
- 32 must include:
- 33 (1) quidelines for when a peace officer should
- 34 activate a camera or discontinue a recording currently in progress,
- 35 considering the need for privacy in certain situations and at
- 36 certain locations;
- 37 (2) provisions relating to:
- 38 (A) data retention, including a provision
- 39 requiring the retention of video for at least 90 days;
- 40 (B) storage of video and audio;
- 41 (C) creation of backup copies of the video and

- 1 audio; 2 maintenance of data security; and (D) 3 (E) the collection of a body worn camera, 4 including the applicable video and audio recorded by the camera, as 5 evidence; quidelines for public access, through open records 6 (3) 7 requests, to recordings that are public information; 8 provisions entitling an officer to access any recording of an incident involving the officer before the officer 9 10 is required to make a statement about the incident; procedures for supervisory or internal review; and 11 (5) 12 provisions for the handling and documenting of 13 equipment and malfunctions of equipment. A policy described by Subsection (a) may not require a 14 peace officer to keep a body worn camera activated for the entire 15 period of the officer's shift. 16 17 (d) A policy described by Subsection (a) must require a peace officer who is equipped with a body worn camera and actively 18 participating in an investigation to keep the camera activated for 19 20 the entirety of the officer's active participation in investigation unless the camera has been deactivated in compliance 21 22 with that policy. (e) A policy adopted under this article must be consistent 23 with the Federal Rules of Evidence and Texas Rules of Evidence. 24 (Occ. Code, Sec. 1701.655.) 25 Source Law 27 Sec. 1701.655. BODY WORN CAMERA POLICY. 28 enforcement agency that receives a grant law to 29
- 26

provide body worn cameras to its peace officers or that otherwise operates a body worn camera program shall adopt a policy for the use of body worn cameras.

(b) A policy described by Subsection (a) must ensure that a body worn camera is activated only for a law enforcement purpose and must include:

- (1)guidelines for when a peace officer should activate a camera or discontinue a recording currently in progress, considering the need for in situations privacy and at certain certain locations;
- (2) provisions relating to data retention, including a provision requiring the retention of video

30

31

32 33 34

35

36 37

38

39

40

1	for a minimum period of 90 days;
2	(3) provisions relating to storage of video and audio, creation of backup copies of the video
4	and audio, and maintenance of data security;
5 6	(4) provisions relating to the collection of a body worn camera, including the applicable video
7	and audio recorded by the camera, as evidence;
8	(5) guidelines for public access, through
9 10	open records requests, to recordings that are public information;
11	(6) provisions entitling an officer to
12	access any recording of an incident involving the
13 14	officer before the officer is required to make a statement about the incident;
15	(7) procedures for supervisory or internal
16 17	review; and (8) the handling and documenting of
18	(8) the handling and documenting of equipment and malfunctions of equipment.
19	(c) A policy described by Subsection (a) may not
20 21	require a peace officer to keep a body worn camera activated for the entire period of the officer's shift.
22	(c-1) A policy described by Subsection (a) must
23	require a peace officer who is equipped with a body
24 25	worn camera and actively participating in an investigation to keep the camera activated for the
26	entirety of the officer's active participation in the
27	investigation unless the camera has been deactivated
28 29	in compliance with that policy. (d) A policy adopted under this section must be
30	consistent with the Federal Rules of Evidence and
31	Texas Rules of Evidence.
32	Revised Law
33	Art. 2B.0107. TRAINING. (a) Before a law enforcement
34	agency may operate a body worn camera program, the agency must
35	provide training to:
36	(1) peace officers who will wear the body worm
37	cameras; and
38	(2) any other personnel who will come into contact
39	with video and audio data obtained from the use of body worn
40	cameras.
41	(b) The commission, in consultation with the department,
42	the Bill Blackwood Law Enforcement Management Institute of Texas,
43	the Caruth Police Institute at Dallas, and the Texas Police Chiefs
44	Association, shall develop or approve a curriculum for a training
45	program under this article. (Occ. Code, Sec. 1701.656.)
46	Source Law
47 48 49 50 51 52	Sec. 1701.656. TRAINING. (a) Before a law enforcement agency may operate a body worn camera program, the agency must provide training to: (1) peace officers who will wear the body worn cameras; and (2) any other personnel who will come into
	<u>.</u>

contact with video and audio data obtained from the use of body worn cameras.

(b) The commission, in consultation with the department, the Bill Blackwood Law Enforcement Management Institute of Texas, the W. W. Caruth Jr. Police Institute at Dallas, and the Texas Police Chiefs Association, shall develop or approve a curriculum for a training program under this section.

9 Revised Law

1

2

3

- Art. 2B.0108. RECORDING INTERACTIONS WITH PUBLIC. (a) A peace officer equipped with a body worn camera shall act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body worn camera must be activated.
- (b) A peace officer equipped with a body worn camera may choose not to activate a camera or may choose to discontinue a recording currently in progress for any encounter with an individual that is not related to an investigation.
- 19 (c) A peace officer who does not activate a body worn camera 20 in response to a call for assistance shall include in the officer's 21 incident report or otherwise note in the case file or record the 22 reason for not activating the camera.
- (d) Any justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable must be based on whether a reasonable officer under the same or similar circumstances would have made the same decision. (Occ. Code, Sec. 1701.657.)

28 <u>Source Law</u>

- Sec. 1701.657. RECORDING INTERACTIONS WITH THE PUBLIC. (a) A peace officer equipped with a body worn camera shall act in a manner that is consistent with the policy of the law enforcement agency that employs the officer with respect to when and under what circumstances a body worn camera must be activated.
- (b) A peace officer equipped with a body worn camera may choose not to activate a camera or may choose to discontinue a recording currently in progress for any encounter with a person that is not related to an investigation.
- (c) A peace officer who does not activate a body worn camera in response to a call for assistance must include in the officer's incident report or otherwise note in the case file or record the reason for not activating the camera.
- (d) Any justification for failing to activate the body worn camera because it is unsafe, unrealistic, or impracticable is based on whether a

29

30

31 32

33

34 35

36

37

38

39 40

41

42 43 44

45

46

reasonable officer under the same or similar circumstances would have made the same decision.

3 <u>Revised Law</u>

- Art. 2B.0109. USE OF PERSONAL EQUIPMENT. (a) If a law enforcement agency receives a grant under Article 2B.0102, a peace officer who is employed by the agency and who is on duty may only use a body worn camera that is issued and maintained by that agency.
- 8 (b) Notwithstanding any previous policy, an agency may not 9 allow its peace officers to use privately owned body worn cameras 10 after receiving a grant described by this article.
- 11 (c) A peace officer who is employed by a law enforcement 12 agency that has not received a grant described by this article or 13 who has not otherwise been provided with a body worn camera by the 14 agency that employs the officer may operate a body worn camera that 15 is privately owned only if permitted by the employing agency.
- 16 (d) An agency that authorizes the use of privately owned 17 body worn cameras under Subsection (c) must make provisions for the 18 security and compatibility of the recordings made by those cameras. 19 (Occ. Code, Sec. 1701.658.)

20 Source Law

Sec. 1701.658. USE OF PERSONAL EQUIPMENT. (a) If a law enforcement agency receives a grant under Section 1701.652, a peace officer who is employed by the agency and who is on duty may only use a body worn camera that is issued and maintained by that agency.

(b) Notwithstanding any previous policies, an agency may not allow its peace officers to use privately owned body worn cameras after receiving a grant described by this section.

- (c) A peace officer who is employed by a law enforcement agency that has not received a grant described by this section or who has not otherwise been provided with a body worn camera by the agency that employs the officer may operate a body worn camera that is privately owned only if permitted by the employing agency.
- (d) An agency that authorizes the use of privately owned body worn cameras under Subsection (c) must make provisions for the security and compatibility of the recordings made by those cameras.

41 Revised Law

Art. 2B.0110. OFFENSE. (a) A peace officer or other employee of a law enforcement agency commits an offense if the officer or employee releases a recording created with a body worn

21

22

23

24 25

26

27

28

29

30 31

32 33

34

35 36

37

38

39

- 1 camera under this subchapter without permission of the applicable
- 2 law enforcement agency.

7 8

9

10 11

12

13

- 3 (b) An offense under this article is a Class A misdemeanor.
- 4 (Occ. Code, Sec. 1701.659.)

5 Source Law

Sec. 1701.659. OFFENSE. (a) A peace officer or other employee of a law enforcement agency commits an offense if the officer or employee releases a recording created with a body worn camera under this subchapter without permission of the applicable law enforcement agency.

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

14 Revised Law

- (a) RECORDINGS AS EVIDENCE. 15 Art. 2B.0111. Except provided by Subsections (b) and (c), a recording created with a body 16 worn camera that documents an incident that involves the use of 17 18 deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be 19 20 deleted, destroyed, or released to the public until all criminal 21 finally adjudicated matters have been and all related 22 administrative investigations have concluded.
- 23 A law enforcement agency may permit an individual who is depicted in a recording of an incident described by Subsection (a) 24 25 or, if the individual is deceased, the individual's authorized representative, to view the recording, if the law enforcement 26 agency determines that the viewing furthers a law enforcement 27 28 purpose and any authorized representative who is permitted to view 29 the recording was not a witness to the incident. An individual 30 viewing a recording under this subsection may not duplicate the recording or capture video or audio from the recording. A permitted 31 viewing of a recording under this subsection is not considered to be 32 a release of public information for purposes of Chapter 552, 33 34 Government Code.
- 35 (c) A law enforcement agency may release to the public a 36 recording described by Subsection (a) if the law enforcement agency 37 determines that the release furthers a law enforcement purpose.

- 1 (d) This article does not affect the authority of a law
- 2 enforcement agency to withhold under Section 552.108, Government
- 3 Code, information related to a closed criminal investigation that
- 4 did not result in a conviction or a grant of deferred adjudication
- 5 community supervision. (Occ. Code, Sec. 1701.660.)

Sec. 1701.660. RECORDINGS AS EVIDENCE. (a) Except as provided by Subsections (a-1) and (b), a recording created with a body worn camera and documenting an incident that involves the use of deadly force by a peace officer or that is otherwise related to an administrative or criminal investigation of an officer may not be deleted, destroyed, or released to the public until all criminal matters have been finally adjudicated and all related administrative investigations have concluded.

(a-1) A law enforcement agency may permit a person who is depicted in a recording of an incident described by Subsection (a) or, if the person is deceased, the person's authorized representative, to view the recording, provided that the law enforcement agency determines that the viewing furthers a law enforcement purpose and provided that any authorized representative who is permitted to view the recording was not a witness to the incident. A person viewing a recording may not duplicate the recording or capture video or audio from the recording. A permitted viewing of a recording under this subsection is not considered to be a release of public information for purposes of Chapter 552, Government Code.

- Chapter 552, Government Code.

 (b) A law enforcement agency may release to the public a recording described by Subsection (a) if the law enforcement agency determines that the release furthers a law enforcement purpose.
- (c) This section does not affect the authority of a law enforcement agency to withhold under Section 552.108, Government Code, information related to a closed criminal investigation that did not result in a conviction or a grant of deferred adjudication community supervision.

41 Revised Law

- 42 Art. 2B.0112. RELEASE OF INFORMATION RECORDED BY BODY WORN
- 43 CAMERA. (a) A member of the public who submits a written request to
- 44 a law enforcement agency for information recorded by a body worn
- 45 camera must include with the request:
- 46 (1) the date and approximate time of the recording;
- 47 (2) the specific location where the recording
- 48 occurred; and
- 49 (3) the name of one or more individuals known to be a
- 50 subject of the recording.

- 1 (b) Failure to provide all of the information required by
- 2 Subsection (a) does not preclude the requestor from making a future
- 3 request for the same recorded information.
- 4 (c) Except as provided by Subsection (d), information
- 5 recorded by a body worn camera and held by a law enforcement agency
- 6 under this subchapter is not subject to Section 552.021, Government
- 7 Code.
- 8 (d) Information that is or could be used as evidence in a
- 9 criminal prosecution is subject to Section 552.021, Government
- 10 Code.
- 11 (e) A law enforcement agency may:
- 12 (1) seek to withhold information subject to Subsection
- 13 (d) in accordance with procedures provided by Section 552.301,
- 14 Government Code;
- 15 (2) assert any exception to disclosure under Chapter
- 16 552, Government Code, or other law; or
- 17 (3) release information requested in accordance with
- 18 Subsection (a) after the agency redacts any information made
- 19 confidential under Chapter 552, Government Code, or other law.
- 20 (f) A law enforcement agency may not release any portion of
- 21 a recording made in a private space, or of a recording involving the
- 22 investigation of conduct that constitutes a misdemeanor punishable
- 23 by fine only and does not result in arrest, without written
- 24 authorization from the individual who is the subject of that
- 25 portion of the recording or, if the individual is deceased, from the
- 26 individual's authorized representative.
- 27 (g) The attorney general shall set a proposed fee to be
- 28 charged to members of the public who seek to obtain a copy of a
- 29 recording under this article in an amount sufficient to cover the
- 30 cost of reviewing and making the recording. A law enforcement
- 31 agency may provide a copy without charge or at a reduced charge if
- 32 the agency determines that waiver or reduction of the charge is in
- 33 the public interest.
- 34 (h) A recording is confidential and excepted from the

- requirements of Chapter 552, Government Code, if the recording:
- 2 was not required to be made under this subchapter, (1)
- 3 another law, or a policy adopted by the appropriate law enforcement
- 4 agency; and

8

9

10

11

12

13

14

15

16

17

18 19

20

21 22 23

24

25

26

27

28

29

30

31

32

33 34

35

36

37 38

39

40

41 42 43

44

45 46

47

48 49

50

51 52

53 54

55 56 57

58

59 60

- does not relate to a law enforcement purpose. 5 (2)
- 6 (Occ. Code, Sec. 1701.661.)

Source Law

RELEASE OF INFORMATION RECORDED Sec. 1701.661. BY BODY WORN CAMERA. (a) A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- the date and approximate time of the (1)recording;
- (2) specific location where the recording occurred; and
- the name of one or more persons known (3) to be a subject of the recording.
- (b) A failure to provide all of the information required by Subsection (a) to be part of a request for recorded information does not preclude the requestor from making a future request for the same recorded information.
- Except provided by Subsection as information recorded by a body worn camera and held by a law enforcement agency under this subchapter is not subject to the requirements of Section Government Code.
- (d) Information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021, Government Code.
 - A law enforcement agency may: (e)
- (1) seek to withhold information subject Subsection (d) in accordance with procedures provided by Section 552.301, Government Code;
- (2) assert any exceptions to disclosure in
- Chapter 552, Government Code, or other law; or (3) release information reque requested accordance with Subsection (a) after the agency redacts any information made confidential under
- Chapter 552, Government Code, or other law.

 (f) A law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and without not result in arrest, authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.
- (g) The attorney general shall set a proposed fee to be charged to members of the public who seek to obtain a copy of a recording under this section. The fee amount must be sufficient to cover the cost of reviewing and making the recording. A law enforcement agency may provide a copy without charge or at a reduced charge if the agency determines that waiver or reduction of the charge is in the public interest.
- (h) A recording is confidential and excepted from the requirements of Chapter 552, Government Code, if the recording:

1 (1)was not required to be made under this 2 subchapter or another law or under a policy adopted by the appropriate law enforcement agency; and 3 does not relate to a law enforcement 4 (2)

5 purpose.

6

Revised Law

7 Art. 2B.0113. BODY WORN CAMERA RECORDINGS; REQUEST 8 ATTORNEY GENERAL DECISION REGARDING PUBLIC INFORMATION. (a) 9 552.301(b), Notwithstanding Section Government Code, а governmental body's request for a decision from the attorney 10 11 general about whether a requested body worn camera recording falls 12 within an exception to public disclosure is considered timely if

- made not later than the 20th business day after the date of receipt 13
- of the written request. 14
- Notwithstanding Section 552.301(d), Government Code, a 15 (b) 16 governmental body's response to a requestor regarding a requested body worn camera recording is considered timely if made not later 17 than the 20th business day after the date of receipt of the written 18
- 19 request.
 - Notwithstanding Section 552.301(e), Government Code, a 20
 - 21 governmental body's submission to the attorney general of the
 - 22 information required by that subsection regarding a requested body
 - worn camera recording is considered timely if made not later than 23
 - 24 the 25th business day after the date of receipt of the written
 - 25 request.
 - Notwithstanding Section 552.301(e-1), Government Code, 26 (d)
 - 27 a governmental body's submission to a requestor of the information
 - 28 required by that subsection regarding a requested body worn camera
- 29 recording is considered timely if made not later than the 25th
- business day after the date of receipt of the written request. 30
- (Occ. Code, Sec. 1701.662.) 31

32 Source Law

33 Sec. 1701.662. BODY WORN CAMERA RECORDINGS; REQUEST FOR ATTORNEY GENERAL DECISION. (a) Notwithstanding Section 552.301(b), Government Code, a governmental body's request for a decision from the attorney general about whether a requested body worn 34 35 36 37 38 camera recording falls within an exception to public disclosure is considered timely if made not later than 39 the 20th business day after the date of receipt of the 40

written request.

1

2

3

5 6 7

8

9

10 11

12

13

14

15

16 17

18

19 20 21

- (b) Notwithstanding Section 552.301(d), Government Code, a governmental body's response to a requestor regarding a requested body worn camera recording is considered timely if made not later than the 20th business day after the date of receipt of the written request.
- (c) Notwithstanding Section 552.301(e), Government Code, a governmental body's submission to the attorney general of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.
- (d) Notwithstanding Section 552.301(e-1), Government Code, a governmental body's submission to a requestor of the information required by that subsection regarding a requested body worn camera recording is considered timely if made not later than the 25th business day after the date of receipt of the written request.

22 Revised Law

- 23 Art. 2B.0114. PRODUCTION OF BODY WORN CAMERA RECORDING IN
- 24 RESPONSE TO VOLUMINOUS PUBLIC INFORMATION REQUESTS. (a) For
- 25 purposes of this article, "voluminous request" includes:
- 26 (1) a request for body worn camera recordings from
- 27 more than five separate incidents;
- 28 (2) more than five separate requests for body worn
- 29 camera recordings from the same individual in a 24-hour period,
- 30 regardless of the number of incidents included in each request; and
- 31 (3) a request or multiple requests from the same
- 32 individual in a 24-hour period for body worn camera recordings
- 33 that, taken together, constitute more than five hours of video
- 34 footage.
- 35 (b) Notwithstanding Section 552.221(d), Government Code, an
- 36 officer for public information who is employed by a governmental
- 37 body and who receives a voluminous request in accordance with
- 38 Article 2B.0112(a) is considered to have promptly produced the
- 39 information for purposes of Section 552.221, Government Code, if
- 40 the officer takes the actions required under Section 552.221 not
- 41 later than the 20th business day after the date of receipt of the
- 42 written request. (Occ. Code, Sec. 1701.663.)

43 Source Law

Sec. 1701.663. PRODUCTION OF BODY WORN CAMERA RECORDING IN RESPONSE TO VOLUMINOUS PUBLIC INFORMATION

- (a) Notwithstanding Section 552.221(d), Government Code, an officer for public information who is employed by a governmental body and who receives a accordance voluminous in with request Section 1701.661(a) is considered to have promptly information for purposes of Section Government Code, if the officer takes the actions required under Section 552.221 before the 21st business day after the date of receipt of the written request.
- 11 (b) For purposes of this section, "voluminous request" includes:
 - (1) a request for body worn camera recordings from more than five separate incidents;
 - (2) more than five separate requests for body worn camera recordings from the same person in a 24-hour period, regardless of the number of incidents included in each request; or
 - (3) a request or multiple requests from the same person in a 24-hour period for body worn camera recordings that, taken together, constitute more than five total hours of video footage.
- 23 SUBCHAPTER D. VIDEO AND AUDIO EQUIPMENT AND RECORDINGS OF MOTOR
- 24 VEHICLE STOPS
- 25 Revised Law
- 26 Art. 2B.0151. FEASIBILITY OF VIDEO AND AUDIO EQUIPMENT AND
- 27 RECORDINGS FOR MOTOR VEHICLE STOPS. (a) In this article:
- 28 (1) "Law enforcement agency" has the meaning assigned
- 29 by Article 2B.0053.
- 30 (2) "Motor vehicle stop" has the meaning assigned by
- 31 Article 2B.0051.

2

3

5 6 7

8

10

13

14

15

16

17

18

- 32 (b) On adoption of a policy under Article 2B.0053(b), a law
- 33 enforcement agency shall examine the feasibility of:
- 34 (1) installing video camera and transmitter-activated
- 35 equipment in each agency law enforcement motor vehicle that is
- 36 regularly used to make motor vehicle stops;
- 37 (2) installing transmitter-activated equipment in
- 38 each agency law enforcement motorcycle regularly used to make motor
- 39 vehicle stops; and
- 40 (3) equipping with a body worn camera, as that term is
- 41 defined by Article 2B.0101, each peace officer who regularly
- 42 detains or stops motor vehicles.
- 43 (c) If a law enforcement agency installs video or audio
- 44 equipment or equips peace officers with body worn cameras as
- 45 provided by this article, the policy adopted by the agency under

- 1 Article 2B.0053(b) must include standards for reviewing video and
- 2 audio documentation. (Code Crim. Proc., Art. 2.132(d); New.)

3 <u>Source Law</u>

4

5

6

78

9

10

11

12

13 14

15 16

17 18

19

20

21

2.2

2.3

24

25

26

2.7

28

29

30

31

32

33

On adoption of a policy under Subsection (d) (b), а law enforcement agency shall examine installing feasibility of video camera transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make motor vehicle stops. The agency also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body worn camera, as that term is defined by Section 1701.651, Occupations Code. If a law enforcement agency installs video or audio equipment or equips peace officers with body worn cameras as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

Revisor's Note

Article 2.132(d), Code of Criminal Procedure, refers to a "law enforcement agency" and "motor vehicle stop." Those terms are defined in Articles 2.132(a)(1) and (2), Code of Criminal Procedure, and are applicable to Subsection (d) of that article. Articles 2.132(a)(1) and (2) are revised in this 2B.0053(a) Articles 2B.0051(2), chapter as and respectively. The revised law includes cross-references to those provisions because the definitions are applicable to Article 2.132(d), Code of Criminal Procedure, revised as Subsections (b) and (c) of this article.

34 Revised Law

- Art. 2B.0152. PROVISION OF MONEY OR EQUIPMENT. (a) The department shall adopt rules for providing money or video and audio equipment to law enforcement agencies to:
- 38 (1) install video and audio equipment in law 39 enforcement motor vehicles and motorcycles; or
- 40 (2) equip peace officers with body worn cameras.
- 41 (b) The rules described by Subsection (a) must specify 42 criteria to prioritize money or equipment provided to law

- 1 enforcement agencies. The criteria may include consideration of
- 2 tax effort, financial hardship, available revenue, and budget
- 3 surpluses. The criteria must give priority to:
- 4 (1) law enforcement agencies that employ peace
- 5 officers whose primary duty is traffic enforcement;
- 6 (2) smaller jurisdictions; and
- 7 (3) municipal and county law enforcement agencies.
- 8 (c) The department shall collaborate with an institution of
- 9 higher education to identify law enforcement agencies that need
- 10 money or video and audio equipment for a purpose described by
- 11 Subsection (a). The collaboration may include the use of a survey to
- 12 assist in developing criteria to prioritize money or equipment
- 13 provided to law enforcement agencies.
- 14 (d) To receive money or video and audio equipment from the
- 15 state for a purpose described by Subsection (a), the governing body
- 16 of a county or municipality, in conjunction with the law
- 17 enforcement agency serving the county or municipality, shall
- 18 certify to the department that the law enforcement agency needs
- 19 money or video and audio equipment for that purpose.
- 20 (e) On receipt of money or video and audio equipment from
- 21 the state for a purpose described by Subsection (a), the governing
- 22 body of a county or municipality, in conjunction with the law
- 23 enforcement agency serving the county or municipality, shall
- 24 certify to the department that the law enforcement agency:
- 25 (1) has taken the necessary actions to use the video
- 26 and audio equipment or body worn cameras for that purpose; and
- 27 (2) is using the video and audio equipment or body worn
- 28 cameras for that purpose. (Code Crim. Proc., Art. 2.137.)

29 <u>Source Law</u>

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include

30

31 32

33 34 35

36 37

consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
 - (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.
- The Department of Public Safety (b) collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment in law motor enforcement vehicles and motorcycles equipping peace officers with body worn cameras. The collaboration may include the use of a survey to assist in developing criteria to prioritize funding equipment provided to law enforcement agencies.
- (c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.
- (d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment in law enforcement motor vehicles and motorcycles or equipping peace officers with body worn cameras, the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has taken the necessary actions to use and is using video and audio equipment and body worn cameras for those purposes.

Revisor's Note

Article 2.137, Code of Criminal Procedure, refers
to providing "funds" to law enforcement agencies.

Throughout this article, the revised law substitutes
"money" for "funds" because, in context, the meaning

is the same and "money" is the more commonly used term.

Revised Law

Art. 2B.0153. RULES. The department may adopt rules to implement Articles 2B.0151 and 2B.0152. (Code Crim. Proc., Art.

50 2.138.)

3

5

6 7

8

9

10

11

12

13

14

15

16

17 18

19 20

21 22

23 24 25

26 27

28 29

30

31 32

33 34 35

36 37

38 39

40

41

46

47

51

Source Law

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Revisor's Note

Article 2.138, Code of Criminal Procedure, 2 3 authorizes the Department of Public Safety to adopt 4 Articles 2.131-2.137. rules to implement Those articles are revised as Articles 2B.0051, 2B.0052, 5 2B.0053, 2B.0054, 2B.0055, 2B.0056, 2B.0057, 2B.0151, 6 and 2B.0152 of this chapter. It is unnecessary to 7 include a reference to Article 2B.0051 for the reason 8 stated in the revisor's note to Article 2B.0059. It is 9 also unnecessary to provide a reference to Articles 10 2B.0052, 2B.0053, 2B.0054, 2B.0055, 2B.0056, 11 12 2B.0057 because the rulemaking authority for those articles is revised as Article 2B.0059. The revised 13 law is drafted to include references only to Articles 14 2B.0151 and 2B.0152 of this chapter. 15

Revised Law

Art. 2B.0154. VIDEO RECORDINGS OF ARRESTS FOR INTOXICATION
OFFENSES. An individual stopped or arrested on suspicion of an
offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code,
is entitled to receive from the law enforcement agency employing
the peace officer who made the stop or arrest a copy of any video
made by or at the direction of the officer that contains footage of:

23 (1) the stop;

1

16

- 24 (2) the arrest;
- 25 (3) the conduct of the individual stopped during any
- 26 interaction with the officer, including during the administration
- 27 of a field sobriety test; or
- 28 (4) a procedure in which a specimen of the individual's
- 29 breath or blood is taken. (Code Crim. Proc., Art. 2.1396.)

30 Source Law

Art. 2.1396. VIDEO RECORDINGS OF ARRESTS FOR INTOXICATION OFFENSES. A person stopped or arrested on suspicion of an offense under Section 49.04, 49.045, 49.07, or 49.08, Penal Code, is entitled to receive from a law enforcement agency employing the peace officer who made the stop or arrest a copy of any video made by or at the direction of the officer that

contains footage of: (1) the stop; (2) the arrest; (3) the conduct of the person stopped during any interaction with the officer, including during the administration of a field sobriety test; or (4) a procedure in which a specimen of the person's breath or blood is taken.
SUBCHAPTER E. ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS
Revised Law
Art. 2B.0201. DEFINITIONS. In this subchapter:
(1) "Electronic recording" means an audiovisual
electronic recording, or an audio recording if an audiovisual
electronic recording is unavailable, that is authentic, accurate,
and unaltered.
(2) "Law enforcement agency" means an agency of this
state, or of a county, municipality, or other political subdivision
of this state, that employs peace officers who, in the routine
performance of the officers' duties, conduct custodial
interrogations of individuals suspected of committing criminal
offenses.
(3) "Place of detention" means a police station or
other building that is a place of operation for a law enforcement
agency, including a municipal police department or county sheriff's
department, and is owned or operated by the law enforcement agency
to detain individuals in connection with the suspected violation of
a penal law. The term does not include a courthouse. (Code Crim.
Proc., Art. 2.32(a).)
Source Law
Art. 2.32. ELECTRONIC RECORDING OF CUSTODIAL INTERROGATIONS. (a) In this article: (1) "Electronic recording" means an audiovisual electronic recording, or an audio recording if an audiovisual electronic recording is unavailable, that is authentic, accurate, and unaltered. (2) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of this state, that employs peace officers who, in the routine performance of the officers' duties, conduct custodial interrogations of persons suspected of committing criminal offenses. (3) "Place of detention" means a police station or other building that is a place of operation for a law enforcement agency, including a municipal

```
police department or county sheriff's department, and is owned or operated by the law enforcement agency for the purpose of detaining persons in connection with the suspected violation of a penal law. The term does not include a courthouse.
```

Revised Law

7 Art. 2B.0202. RECORDING OF CUSTODIAL INTERROGATION 8 REQUIRED; EXCEPTIONS. (a) Unless good cause exists that makes 9 electronic recording infeasible, a law enforcement agency shall 10 make a complete and contemporaneous electronic recording of any custodial interrogation that occurs in a place of detention and is 11 12 an individual suspected of committing or charged with the commission of an offense under the following provisions of the 13 14 Penal Code:

- 15 (1) Section 19.02 (murder);
- 16 (2) Section 19.03 (capital murder);
- 17 (3) Section 20.03 (kidnapping);
- 18 (4) Section 20.04 (aggravated kidnapping);
- 19 (5) Section 20A.02 (trafficking of persons);
- 20 (6) Section 20A.03 (continuous trafficking of
- 21 persons);

- 22 (7) Section 21.02 (continuous sexual abuse of young
- 23 child or disabled individual);
- 24 (8) Section 21.11 (indecency with a child);
- 25 (9) Section 21.12 (improper relationship between
- 26 educator and student);
- 27 (10) Section 22.011 (sexual assault);
- 28 (11) Section 22.021 (aggravated sexual assault); or
- 29 (12) Section 43.25 (sexual performance by a child).
- 30 (b) For purposes of Subsection (a), an electronic recording
- 31 of a custodial interrogation is complete only if the recording:
- 32 (1) begins at or before the time the individual being
- 33 interrogated enters the area of the place of detention in which the
- 34 custodial interrogation will take place or receives a warning
- 35 described by Section 2(a), Article 38.22, whichever is earlier; and
- 36 (2) continues until the time the interrogation ends.

- 1 (c) For purposes of Subsection (a), good cause that makes
- 2 electronic recording infeasible includes the following:
- 3 (1) the individual being interrogated refused to
- 4 respond or cooperate in a custodial interrogation at which an
- 5 electronic recording was being made, provided that:
- 6 (A) a contemporaneous recording of the refusal
- 7 was made; or
- 8 (B) the peace officer or agent of the law
- 9 enforcement agency conducting the interrogation attempted, in good
- 10 faith, to record the individual's refusal but the individual was
- 11 unwilling to have the refusal recorded, and the peace officer or
- 12 agent contemporaneously, in writing, documented the refusal;
- 13 (2) the statement was not made as the result of a
- 14 custodial interrogation, including a statement that was made
- 15 spontaneously by the accused and not in response to a question by a
- 16 peace officer;
- 17 (3) the peace officer or agent of the law enforcement
- 18 agency conducting the interrogation attempted, in good faith, to
- 19 record the interrogation but:
- 20 (A) the recording equipment did not function;
- 21 (B) the officer or agent inadvertently operated
- 22 the equipment incorrectly; or
- (C) the equipment malfunctioned or stopped
- 24 operating without the knowledge of the officer or agent;
- 25 (4) exigent public safety concerns prevented or
- 26 rendered infeasible the making of an electronic recording of the
- 27 statement; or
- 28 (5) the peace officer or agent of the law enforcement
- 29 agency conducting the interrogation reasonably believed at the time
- 30 the interrogation commenced that the individual being interrogated
- 31 was not taken into custody for or being interrogated concerning the
- 32 commission of an offense listed in Subsection (a). (Code Crim.
- 33 Proc., Arts. 2.32(b), (c), (d).)

- (b) Unless good cause exists that makes electronic recording infeasible, a law enforcement agency shall make a complete and contemporaneous electronic recording of any custodial interrogation that occurs in a place of detention and is of a person suspected of committing or charged with the commission of an offense under:
 - (1) Section 19.02, Penal Code (murder);
 - (2) Section 19.03, Penal Code (capital

murder);

- (3) Section 20.03, Penal Code (kidnapping);
- (4) Section 20.04, Penal Code (aggravated kidnapping);
- (5) Section 20A.02, Penal Code (trafficking of persons);
- (6) Section 20A.03, Penal Code (continuous trafficking of persons);
- (7) Section 21.02, Penal Code (continuous sexual abuse of young child or disabled individual);
 - (8) Section 21.11, Penal Code (indecency

with a child);

- (9) Section 21.12, Penal Code (improper relationship between educator and student);
- (10) Section 22.011, Penal Code (sexual assault);
- (11) Section 22.021, Penal Code (aggravated sexual assault); or
- (12) Section 43.25, Penal Code (sexual performance by a child).
- (c) For purposes of Subsection (b), an electronic recording of a custodial interrogation is complete only if the recording:
- (1) begins at or before the time the person being interrogated enters the area of the place of detention in which the custodial interrogation will take place or receives a warning described by Section 2(a), Article 38.22, whichever is earlier; and
- (2) continues until the time the interrogation ceases.
- (d) For purposes of Subsection (b), good cause that makes electronic recording infeasible includes the following:
- (1) the person being interrogated refused to respond or cooperate in a custodial interrogation at which an electronic recording was being made, provided that:
- $\hbox{(A)} \quad \hbox{a contemporaneous recording of the refusal was made; or }$
- (B) the peace officer or agent of the law enforcement agency conducting the interrogation attempted, in good faith, to record the person's refusal but the person was unwilling to have the refusal recorded, and the peace officer or agent contemporaneously, in writing, documented the refusal;
- (2) the statement was not made as the result of a custodial interrogation, including a statement that was made spontaneously by the accused and not in response to a question by a peace officer;
- (3) the peace officer or agent of the law enforcement agency conducting the interrogation attempted, in good faith, to record the interrogation but the recording equipment did not function, the officer or agent inadvertently operated the equipment

- 1 incorrectly, or the equipment malfunctioned or stopped 2 operating without the knowledge of the officer or 3 agent; 4 public (4) exigent safety concerns prevented or rendered 5 infeasible the making of an 6 electronic recording of the statement; or the peace officer or agent of the law 8 conducting the enforcement agency interrogation reasonably believed at the time the interrogation 9 10 commenced that the person being interrogated was not 11 taken into custody for or being interrogated 12 concerning the commission of an offense listed 13 Subsection (b). 14 Revised Law PUBLIC DISCLOSURE. 15 Art. 2B.0203. Α recording of 16 custodial interrogation that complies with this subchapter 17 exempt from public disclosure as provided by Section 552.108, Government Code. (Code Crim. Proc., Art. 2.32(e).) 18 19 Source Law 20 A recording of a custodial interrogation that complies with this article is exempt from public 2.1 disclosure as provided by Section 552.108, Government 22 23 Code. SUBCHAPTER F. USE OF FORCE 24 25 Revised Law INTERVENTION REQUIRED FOR EXCESSIVE FORCE; 26 Art. 2B.0251. REPORT REQUIRED. (a) A peace officer has a duty to intervene to 2.7 28 stop or prevent another peace officer from using force against a person suspected of committing an offense if: 29 30 (1) the amount of force exceeds that which is reasonable under the circumstances; and 31 (2) the officer knows or should know that the other 32 officer's use of force: 33 34 violates state or federal law; (A) 35 (B) puts a person at risk of bodily injury, as defined by Section 1.07, Penal Code, and is not immediately 36 37 necessary to avoid imminent bodily injury to a peace officer or 38 other person; and
- (C) is not required to apprehend the person
- 40 suspected of committing an offense.
- 41 (b) A peace officer who witnesses the use of excessive force
- 42 by another peace officer shall promptly make a detailed report of

- 1 the incident and deliver the report to the supervisor of the peace
- 2 officer making the report. (Code Crim. Proc., Art. 2.1387.)

4

5 6 7

8

9

10 11

12 13

14

15

16

17 18

19

20

21

22

232425

Art. 2.1387. INTERVENTION REQUIRED FOR EXCESSIVE FORCE; REPORT REQUIRED. (a) A peace officer has a duty to intervene to stop or prevent another peace officer from using force against a person suspected of committing an offense if:

- (1) the amount of force exceeds that which is reasonable under the circumstances; and
- (2) the officer knows or should know that the other officer's use of force:
 - (A) violates state or federal law;
- (B) puts a person at risk of bodily injury, as that term is defined by Section 1.07, Penal Code, and is not immediately necessary to avoid imminent bodily injury to a peace officer or other person; and
- (C) is not required to apprehend the person suspected of committing an offense.
- (b) A peace officer who witnesses the use of excessive force by another peace officer shall promptly make a detailed report of the incident and deliver the report to the supervisor of the peace officer making the report.

26 Revised Law

- 27 Art. 2B.0252. USE OF NECK RESTRAINTS DURING SEARCH OR
- 28 ARREST PROHIBITED. A peace officer may not intentionally use a
- 29 choke hold, carotid artery hold, or similar neck restraint in
- 30 searching or arresting a person unless the restraint is necessary
- 31 to prevent serious bodily injury to or the death of the officer or
- 32 another person. (Code Crim. Proc., Art. 2.33, as added Acts 87th
- 33 Leg., R.S., Ch. 534.)

34 Source Law

- Art. 2.33. 35 USE OF NECK RESTRAINTS DURING SEARCH ARREST PROHIBITED. 36 A peace officer may not 37 intentionally use a choke hold, carotid artery hold, or similar neck restraint in searching or arresting a 38 39 person unless the restraint is necessary to prevent 40 serious bodily injury to or the death of the officer or 41 another person.
- 42 Revised Law
- 43 Art. 2B.0253. LAW ENFORCEMENT POLICY ON USE OF FORCE BY
- 44 DRONE. (a) In this article:
- 45 (1) "Drone" means an unmanned aircraft, watercraft, or
- 46 ground vehicle or a robotic device that:
- 47 (A) is controlled remotely by a human operator;

- 1 or
- 2 (B) operates autonomously through computer
- software or other programming. 3
- 4 "Law enforcement agency" means an agency of the (2)
- an agency of a political subdivision of the state 5 state or
- authorized by law to employ peace officers. 6
- 7 Each law enforcement agency that uses or intends to use
- 8 a drone for law enforcement purposes shall:
- 9 adopt a written policy regarding the agency's use (1)
- of force by means of a drone, before the agency first uses a drone, 10
- 11 and update the policy as necessary; and
- not later than January 1 of each even-numbered 12
- 13 year, submit the policy to the commission in the manner prescribed
- 14 by the commission. (Code Crim. Proc., Art. 2.33, as added Acts 87th
- Leg., R.S., Ch. 1011.) 15

17 Art. 2.33. LAW ENFORCEMENT POLICY ON USE OF 18

FORCE BY DRONE. (a) In this article:

- "Drone" means an unmanned aircraft, (1)watercraft, or ground vehicle or a robotic device that:
- is controlled remotely by a human (A)

23 operator; or 24

19

20

21

22

25

26

27 28 29

30

31 32

33

34 35

36

37 38

39 40

- (B) operates autonomously through computer software or other programming.
- agency" (2) "Law enforcement means agency of the state or an agency of a political subdivision of the state authorized by law to employ peace officers.
- (b) Each law enforcement agency that uses or intends to use a drone for law enforcement purposes shall:
- adopt a written policy regarding the (1)agency's use of force by means of a drone, before the agency first uses a drone, and update the policy as necessary; and
- (2) not later than January 1 of each even-numbered year, submit the policy to the Texas Commission on Law Enforcement in the manner prescribed by the commission.
- SUBCHAPTER G. DUTY TO REQUEST AND RENDER AID 41

42 Revised Law

- DUTY TO REQUEST AND RENDER AID. (a) 43 Art. 2B.0301.
- 44 as provided by Subsection (b), a peace officer who encounters an
- 45 injured person while discharging the officer's official duties

1	shall immediately and as necessary:				
2	(1) request emergency medical services personnel to				
3	provide the person with emergency medical services; and				
4	(2) while waiting for emergency medical services				
5	personnel to arrive, provide first aid or treatment to the person to				
6	the extent of the officer's skill and training.				
7	(b) The peace officer is not required to request emergency				
8	medical services or provide first aid or treatment under Subsection				
9	(a) if:				
10	(1) making the request or providing the treatment				
11	would expose the officer or another person to a risk of bodily				
12	injury; or				
13	(2) the officer is injured and physically unable to				
14	make the request or provide the treatment. (Code Crim. Proc., Art.				
15	2.33, as added Acts 87th Leg., R.S., Ch. 979.)				
16	Source Law				
17 118 19 20 22 22 22 23 4 22 25 6 27 28 29 30 31 31 31 31 31 31 31 31 31 31 31 31 31	Except as provided by Subsection (b), a peace officer who encounters an injured person while discharging the officer's official duties shall immediately and as necessary: (1) request emergency medical services personnel to provide the person with emergency medical services; and (2) while waiting for emergency medical services personnel to arrive, provide first aid or treatment to the person to the extent of the officer's skill and training. (b) The peace officer is not required to request emergency medical services or provide first aid or treatment under Subsection (a) if: (1) making the request or providing the treatment would expose the officer or another person to a risk of bodily injury; or (2) the officer is injured and physically				
	unable to make the request or provide the treatment.				
37	CHAPTER 13A. VENUE				
38	SUBCHAPTER A. GENERAL PROVISIONS				
39	Art. 13A.001. VENUE GENERALLY				
40	Art. 13A.002. PLEADING AND PROVING VENUE				
41	Art. 13A.003. WHEN VENUE CANNOT BE DETERMINED134				

1	SUBCHAPTER B. VENUE IN CERTAIN CIRCUMSTANCES			
2	Art.	13A.051.	OFFENSE COMMITTED WHOLLY OR PARTLY	
3			OUTSIDE THIS STATE	
4	Art.	13A.052.	OFFENSE COMMITTED OUTSIDE THIS STATE BY	
5			PERSON ACTING FOR STATE	
6	Art.	13A.053.	OFFENSE COMMITTED ON OR NEAR BOUNDARY	
7	Art.	13A.054.	PERSON INJURED IN ONE COUNTY AND DYING	
8			IN ANOTHER	
9	Art.	13A.055.	OFFENSE COMMITTED ON VESSEL	
10	Art.	13A.056.	CERTAIN OFFENSES COMMITTED AGAINST A	
11			CHILD	
12	Art.	13A.057.	VENUE BY CONSENT	
13			SUBCHAPTER C. INCHOATE OFFENSES	
14	Art.	13A.101.	CONSPIRACY	
15		SU	BCHAPTER D. OFFENSES AGAINST THE PERSON	
16	Art.	13A.151.	TRAFFICKING OF PERSONS, FALSE	
17			IMPRISONMENT, KIDNAPPING, AND	
18			SMUGGLING OF PERSONS	
19	Art.	13A.152.	SEXUAL ASSAULT	
20		SU	BCHAPTER E. OFFENSES AGAINST THE FAMILY	
21	Art.	13A.201.	BIGAMY	
22	Art.	13A.202.	CRIMINAL NONSUPPORT	
23	Art.	13A.203.	PROTECTIVE ORDER OFFENSES	
24	Art.	13A.204.	CONTINUOUS VIOLENCE AGAINST THE FAMILY145	
25		S	UBCHAPTER F. OFFENSES AGAINST PROPERTY	
26	Art.	13A.251.	THEFT; ORGANIZED RETAIL THEFT; CARGO	
27			THEFT	
28	Art.	13A.252.	UNAUTHORIZED USE OF A VEHICLE	
29	Art.	13A.253.	UNAUTHORIZED ACQUISITION OR TRANSFER OF	
30			CERTAIN FINANCIAL INFORMATION146	
31	Art.	13A.254.	FORGERY	
32	Art.	13A.255.	CREDIT CARD OR DEBIT CARD ABUSE	
33	Art.	13A.256.	HINDERING SECURED CREDITORS	
34	Δrt	13A.257.	TILLEGAL RECRUTTMENT OF AN ATHLETE	

1	Art.	13A.258.	MISAPPLICATION OF CERTAIN PROPERTY149
2	Art.	13A.259.	CERTAIN DECEPTIVE PRACTICES
3	Art.	13A.260.	FRAUDULENT USE OR POSSESSION OF
4			IDENTIFYING INFORMATION
5	Art.	13A.261.	FRAUDULENT, SUBSTANDARD, OR FICTITIOUS
6			DEGREE
7	Art.	13A.262.	MORTGAGE FRAUD
8	Art.	13A.263.	COMPUTER OFFENSES
9	Art.	13A.264.	TELECOMMUNICATIONS OFFENSES
10	Art.	13A.265.	MONEY LAUNDERING
11		SUBCHAP	TER G. OFFENSES AGAINST PUBLIC ADMINISTRATION
12	Art.	13A.301.	OBSTRUCTION OR RETALIATION
13	Art.	13A.302.	PERJURY
14	Art.	13A.303.	RECORD OF A FRAUDULENT COURT
15	Art.	13A.304.	ESCAPE; UNAUTHORIZED ABSENCE
16		SUBCHAPT	ER H. OFFENSES AGAINST PUBLIC ORDER AND DECENCY
17	Art.	13A.451.	FALSE REPORT TO INDUCE EMERGENCY
18			RESPONSE
19			SUBCHAPTER I. ORGANIZED CRIME
20	Art.	13A.501.	ENGAGING IN ORGANIZED CRIMINAL ACTIVITY157
21		SU	BCHAPTER J. OFFENSES OUTSIDE PENAL CODE
22	Art.	13A.551.	FAILURE TO COMPLY WITH SEX OFFENDER
23			REGISTRATION STATUTE
24	Art.	13A.552.	CERTAIN OFFENSES COMMITTED AGAINST CHILD
25			COMMITTED TO TEXAS JUVENILE JUSTICE
26			DEPARTMENT
27	Art.	13A.553.	POSSESSION AND DELIVERY OF MARIHUANA159
28	Art.	13A.554.	FAILURE TO COMPLY WITH SEXUALLY VIOLENT
29			PREDATOR CIVIL COMMITMENT REQUIREMENT160
30			CHAPTER 13A. VENUE
31			SUBCHAPTER A. GENERAL PROVISIONS
32			Revised Law
33		Art. 13A	.001. VENUE GENERALLY. If venue is not
34	speci	ifically s	tated for an offense, the offense may be prosecuted

- 1 in the county in which the offense was committed. (Code Crim. Proc.,
- 2 Art. 13.18.)

Art. 13.18. OTHER OFFENSES. If venue is not specifically stated, the proper county for the prosecution of offenses is that in which the offense was committed.

8 Revisor's Note

Article 13.18, Code of Criminal Procedure, 9 10 provides that, if venue is not specifically stated for 11 an offense, "the proper county for the prosecution of [the offense] is" the county in which the offense was 12 13 committed. For consistency in terminology, the 14 revised law substitutes for the quoted language "the 15 offense may be prosecuted in because, 16 context, the phrases have the same meaning and the latter is more consistent with modern usage. 17

18 Revised Law

- Art. 13A.002. PLEADING AND PROVING VENUE. (a) In each case described by this chapter, the indictment or information or any other pleading may allege that the offense was committed in the county in which the prosecution is conducted.
- (b) An allegation of venue under this article may be sustained if the attorney representing the state proves by a preponderance of the evidence that, based on the facts in the case, the county in which the prosecution is conducted has venue. (Code Crim. Proc., Art. 13.17.)

28 Source Law

Art. 13.17. PROOF OF VENUE. all cases In in this Chapter, indictment mentioned the information, or any pleading in the case, may allege that the offense was committed in the county where the prosecution is carried on. To sustain the allegation of venue, it shall only be necessary to prove by the preponderance of the evidence that by reason of the facts in the case, the county where such prosecution is carried on has venue.

38 Revisor's Note

39 (1) Article 13.17, Code of Criminal Procedure,

29

30

31 32 33

34 35

provides procedures for the pleading and proving of venue "[i]n all cases mentioned in this Chapter." The only provisions of Chapter 13, Code of Criminal Procedure, not revised in this chapter are portions of Article 13.15 that require a district judge to direct a grand jury to investigate certain sexual assault accusations and a district court to order a change of venue in certain sexual assault Those portions of Article 13.15 are clearly cases. inapplicable here because grand jury organization is governed by Chapter 19A, Code of Criminal Procedure, and change of venue is governed by Chapter 31, Code of Criminal Procedure, revised as Chapter 31A of that code. Because the remaining provisions of Chapter 13, Code of Criminal Procedure, to which Article 13.17 could reasonably apply are revised in this chapter, the revised law is drafted accordingly.

- (2) Article 13.17, Code of Criminal Procedure, states that any pleading in a criminal case may allege that the offense was committed in the county in which the prosecution is "carried on." The revised law substitutes "conducted" for "carried on" because the terms are synonymous and "conducted" is more consistent with modern usage.
- (3) Article 13.17, Code of Criminal Procedure, requires that venue be proven by a preponderance of the evidence. For clarity, the revised law specifies that the attorney representing the state must prove venue because in a criminal prosecution the state has the burden to prove that venue is proper in the county in which the indictment or information is filed.

32 Revised Law

Art. 13A.003. WHEN VENUE CANNOT BE DETERMINED. If an offense has been committed in this state and the county in which the

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

- 1 offense was committed cannot be readily determined, the offense may
- 2 be prosecuted in the county:
- 3 (1) in which the defendant resides;
- 4 (2) in which the defendant is apprehended; or
- 5 (3) to which the defendant is extradited. (Code Crim.
- 6 Proc., Art. 13.19.)

Art. 13.19. WHERE VENUE CANNOT BE DETERMINED.

If an offense has been committed within the state and

it cannot readily be determined within which county or

counties the commission took place, trial may be held

in the county in which the defendant resides, in the

county in which he is apprehended, or in the county to

which he is extradited.

15 <u>Revisor's Note</u>

Article 13.19, Code of Criminal Procedure, states
the county in which "trial may be held" when venue
cannot readily be determined. For consistency in
terminology, the revised law substitutes "the offense
may be prosecuted" for "trial may be held" because, in
this context, the phrases have the same meaning.

SUBCHAPTER B. VENUE IN CERTAIN CIRCUMSTANCES

23 Revised Law

- 24 Art. 13A.051. OFFENSE COMMITTED WHOLLY OR PARTLY OUTSIDE
- 25 THIS STATE. (a) An offense committed wholly or partly outside this
- 26 state under circumstances that give this state jurisdiction to
- 27 prosecute the defendant may be prosecuted in any county in which:
- 28 (1) the defendant is found; or
- 29 (2) an element of the offense occurs.
- 30 (b) Criminal homicide committed wholly or partly outside
- 31 this state under circumstances that give this state jurisdiction to
- 32 prosecute the defendant may be prosecuted in the county in which:
- 33 (1) the injury was inflicted;
- 34 (2) the defendant was located when the defendant
- 35 inflicted the injury; or
- 36 (3) the victim died or the victim's body was found.
- 37 (Code Crim. Proc., Arts. 13.01, 13.05.)

1	Source Law
2 3 4 5 6 7 8	Art. 13.01. OFFENSES COMMITTED OUTSIDE THIS STATE. Offenses committed wholly or in part outside this State, under circumstances that give this State jurisdiction to prosecute the offender, may be prosecuted in any county in which the offender is found or in any county in which an element of the offense occurs.
9 10 11 12 13 14 15 16	Art. 13.05. CRIMINAL HOMICIDE COMMITTED OUTSIDE THIS STATE. The offense of criminal homicide committed wholly or in part outside this State, under circumstances that give this State jurisdiction to prosecute the offender, may be prosecuted in the county where the injury was inflicted, or in the county where the offender was located when he inflicted the injury, or in the county where the victim died or the body was found.
18	Revisor's Note
19	Articles 13.01 and 13.05, Code of Criminal
20	Procedure, refer to the "offender." For consistency in
21	terminology, the revised law substitutes "defendant"
22	for "offender" because, in this context, the terms are
23	synonymous and the former is more commonly used in the
24	Code of Criminal Procedure.
25	Revised Law
26	Art. 13A.052. OFFENSE COMMITTED OUTSIDE THIS STATE BY
27	PERSON ACTING FOR STATE. An offense committed outside this state by
28	any officer acting under the authority of this state under
29	circumstances that give this state jurisdiction to prosecute the
30	defendant may be prosecuted in:
31	(1) the county in which the defendant resides; or
32	(2) if a nonresident of this state, Travis County.
33	(Code Crim. Proc., Art. 13.10.)
34	Source Law
35 36 37 38 39 40 41	Art. 13.10. PERSONS ACTING UNDER AUTHORITY OF THIS STATE. An offense committed outside this State by any officer acting under the authority of this State, under circumstances that give this state jurisdiction to prosecute the offender, may be prosecuted in the county of his residence or, if a nonresident of this State, in Travis County.
42	Revisor's Note
43	Article 13.10, Code of Criminal Procedure, refers

to the "offender." The revised law substitutes

- "defendant" for "offender" for the reason stated in
- the revisor's note to Article 13A.051.

3 Revised Law

- 4 Art. 13A.053. OFFENSE COMMITTED ON OR NEAR BOUNDARY. (a)
- 5 An offense committed on or within 400 yards of the boundaries of two
- 6 or more counties may be prosecuted in any one of those counties.
- 7 (b) An offense committed on the premises of an airport
- 8 operated jointly by two municipalities and located in two counties
- 9 may be prosecuted in either county.
- 10 (c) An offense punishable by fine only committed on or near
- 11 the boundary of contiguous municipalities that have entered into an
- 12 agreement authorized by Article 4.14(f) of this code and Section
- 13 29.003(h), Government Code, may be prosecuted in either of those
- 14 municipalities as provided in the agreement.
- 15 (d) An offense committed on a river or stream forming the
- 16 boundary of this state may be prosecuted in the county:
- 17 (1) the boundary of which is on the river or stream;
- 18 and
- 19 (2) the county seat of which is nearest the place where
- 20 the offense was committed. (Code Crim. Proc., Arts. 13.04, 13.045,
- 21 13.06.)

23

2425

26 27

28 29

30

31 32 33

34

35

36 37

38

39 40 41

42

43

22 <u>Source Law</u>

Art. 13.04. ON THE BOUNDARIES OF COUNTIES. An offense committed on the boundaries of two or more counties, or within four hundred yards thereof, may be prosecuted and punished in any one of such counties and any offense committed on the premises of any airport operated jointly by two municipalities and situated in two counties may be prosecuted and punished in either county.

Art. 13.045. ON THE BOUNDARIES OF CERTAIN MUNICIPALITIES. An offense punishable by fine only that is committed on or near the boundary of contiguous municipalities that have entered into an agreement authorized by Article 4.14(f) and Section 29.003(h), Government Code, may be prosecuted in either of those municipalities as provided in the agreement.

Art. 13.06. COMMITTED ON A BOUNDARY STREAM. If an offense be committed upon any river or stream, the boundary of this State, it may be prosecuted in the county the boundary of which is upon such stream or river, and the county seat of which is nearest the place where the offense was committed.

Revisor's Note

- Article 13.04, Code of Criminal Procedure, provides that certain offenses may be prosecuted "and 3 punished" in certain counties. The revised law omits 4 "and punished" as 5 unnecessary because, in context, "punished" is included in the meaning of 6 "prosecuted." See, e.g., Section 2(b), Article 37.07, Code of Criminal Procedure (providing that on a guilty 8 finding the judge or jury shall assess punishment); 9 Section 3(c), Article 37.07, Code of Criminal 10 Procedure (providing that in a case submitted to a 11 12 jury, "the verdict shall not be complete until a jury verdict has been rendered on both the quilt 13 innocence of the defendant and the 14 amount of 15 punishment").
 - Article 13.04, Code of Criminal Procedure, (2) refers to certain airports that are "situated" in two Throughout this chapter, the revised law substitutes "located" for "situated" because in this context the terms are synonymous and "located" is more commonly used in the Code of Criminal Procedure.

22 Revised Law

- 23 Art. 13A.054. PERSON INJURED IN ONE COUNTY AND DYING IN ANOTHER. An offense in which a person is injured in one county and, 24 as a result of the injury, dies in another county, may be prosecuted 25
- in the county in which: 26
- the injury was received; 27 (1)
- 28 the death occurred; or (2)
- the person's body is found. (Code Crim. Proc., 29 (3)
- 30 Art. 13.07.)

1

2

7

16

17

18

19

20

21

31 Source Law

32 Art. 13.07. INJURED IN ONE COUNTY AND DYING IN ANOTHER. If a person receives an injury in one county 33 34 and dies in another by reason of such injury, the offender may be prosecuted in the county where the 35 injury was received or where the death occurred, or in 36

the county where the dead body is found.

2 <u>Revisor's Note</u>

1

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

34

- (1) Article 13.07, Code of Criminal Procedure, provides that an "offender [who commits an offense to which that article applies] may be prosecuted" in certain counties. For consistency in terminology, the revised law substitutes "offense" for "offender" because the former is more commonly used in the context of establishing the proper venue for a prosecution.
- (2) Article 13.07, Code of Criminal Procedure, provides that an offense in which a person is injured in one county and dies in another county as a result of the injury may be prosecuted in, among other counties, the county in which the "dead body" is found. The revised law omits "dead" as unnecessary because it is clear from the context that this article applies only if the person is dead.

18 Revised Law

- 19 Art. 13A.055. OFFENSE COMMITTED ON VESSEL. An offense 20 committed on board a vessel that at the time of the offense is on a 21 navigable water in the boundaries of this State may be prosecuted 22 in:
- 23 (1) any county through which the vessel is navigated 24 in the course of the voyage; or
- 25 (2) the county in which the voyage commences or 26 terminates. (Code Crim. Proc., Art. 13.11.)

27 Source Law

Art. 13.11. ON VESSELS. An offense committed on board a vessel which is at the time upon any navigable water within the boundaries of this State, may be prosecuted in any county through which the vessel is navigated in the course of her voyage, or in the county where the voyage commences or terminates.

Revised Law

- 35 Art. 13A.056. CERTAIN OFFENSES COMMITTED AGAINST A CHILD.
- 36 An offense under Title 5, Penal Code, involving a victim younger
- 37 than 18 years of age, or an offense under Section 25.03, Penal Code,

- 1 that results in bodily injury to a child younger than 18 years of
- 2 age, may be prosecuted in the county in which:
- 3 (1) an element of the offense was committed;
- 4 (2) the defendant is apprehended;
- 5 (3) the victim resides; or
- 6 (4) the defendant resides. (Code Crim. Proc., Art.
- 7 13.075.)

17

8 Source Law

Art. 13.075. CHILD INJURED IN ONE COUNTY AND RESIDING IN ANOTHER. An offense under Title 5, Penal Code, involving a victim younger than 18 years of age, or an offense under Section 25.03, Penal Code, that results in bodily injury to a child younger than 18 years of age, may be prosecuted in the county:

(1) in which an element of the offense was

16 committed;

- (2) in which the defendant is apprehended;
- 18 (3) in which the victim resides; or
- 19 (4) in which the defendant resides.

20 <u>Revised Law</u>

- 21 Art. 13A.057. VENUE BY CONSENT. With the consent of the
- 22 defendant in writing, the defendant's attorney, and the attorney
- 23 representing the state, the trial of a felony case without a jury
- 24 may be held in any county in a judicial district for the county in
- 25 which venue is otherwise authorized by law. (Code Crim. Proc., Art.
- 26 13.20.)

34

27 <u>Source Law</u>

Art. 13.20. VENUE BY CONSENT. The trial of all felony cases, without a jury, may, with the consent of the defendant in writing, his attorney, and the attorney for the state, be held in any county within the judicial district or districts for the county where venue is otherwise authorized by law.

Revisor's Note

Article 13.20, Code of Criminal Procedure, refers
to an "attorney for the state." For consistency in
terminology, the revised law substitutes "attorney
representing the state" for "attorney for the state"
because "attorney representing the state" is more
commonly used in the Code of Criminal Procedure.

SUBCHAPTER C. INCHOATE OFFENSES 1 2 Revised Law 3 Art. 13A.101. CONSPIRACY. (a) Criminal conspiracy may be 4 prosecuted in any county in which: 5 (1)the conspiracy was entered into; 6 (2)the conspiracy was agreed to be executed; or 7 (3)one or more of the conspirators acts to effect an 8 object of the conspiracy. 9 If an object of a criminal conspiracy is an offense (b) classified as a felony under the Tax Code, the conspiracy may be 10 prosecuted in any county in which venue is proper under the Tax Code 11 for the offense, regardless of whether the offense was committed. 12 If a criminal conspiracy was entered into outside this 13 state under circumstances that give this state jurisdiction to 14 prosecute the defendant, the conspiracy may be prosecuted in: 15 16 (1)any county in which the conspiracy was agreed to be 17 executed; any county in which any of the conspirators were 18 (2)19 found; or 20 (3) Travis County. (Code Crim. Proc., Art. 13.13.) 21 Source Law 22 Art. 13.13. CONSPIRACY. Criminal conspiracy may be prosecuted in the county where the conspiracy 23 was entered into, in the county where the conspiracy 24 25 was agreed to be executed, or in any county in which one or more of the conspirators does any act to effect 26 an object of the conspiracy. If the object of the conspiracy is an offense classified as a felony under 27 28 29 the Tax Code, regardless of whether the offense was 30 committed, the conspiracy may be prosecuted in any county in which venue is proper under the Tax Code for the offense. If a conspiracy was entered into outside this State under circumstances that give this State 31 32 33 34 jurisdiction to prosecute the offender, the offender 35 may be prosecuted in the county where the conspiracy 36 was agreed to be executed, in the county where any one 37 of the conspirators was found, or in Travis County. Revisor's Note 38 Article 13.13, Code of Criminal Procedure, 39 (1)

conspiracy

under

40

41

provides that an "offender [who commits a criminal

circumstances]

mav

certain

1	prosecuted" in certain counties. For consistency in
2	terminology, the revised law substitutes "conspiracy"
3	for "offender" because the former is more commonly
4	used in the context of establishing the proper venue
_	for a prosecution

(2) Article 13.13, Code of Criminal Procedure, refers to "jurisdiction to prosecute the offender."

The revised law substitutes "defendant" for "offender" for the reason stated in the revisor's note to Article 13A.051.

SUBCHAPTER D. OFFENSES AGAINST THE PERSON

12 Revised Law

6

7

8

9

10

11

28

29

30

31

32

33

34

35

36

37

- Art. 13A.151. TRAFFICKING OF PERSONS, FALSE IMPRISONMENT,

 KIDNAPPING, AND SMUGGLING OF PERSONS. Trafficking of persons,

 false imprisonment, kidnapping, or smuggling of persons may be

 prosecuted in any county:
- 17 (1) in which the offense was committed; or
- 18 (2) through, into, or out of which the victim may have 19 been taken. (Code Crim. Proc., Art. 13.12.)

20 Source Law

Art. 13.12. TRAFFICKING OF PERSONS, FALSE
IMPRISONMENT, KIDNAPPING, AND SMUGGLING OF PERSONS.
Venue for trafficking of persons, false imprisonment,
kidnapping, and smuggling of persons is in:
(1) the county in which the offense was
committed; or
(2) any county through, into, or out of

(2) any county through, into, or out of which the person trafficked, falsely imprisoned, kidnapped, or transported may have been taken.

Revisor's Note

Article 13.12, Code of Criminal Procedure, provides that "[v]enue for" certain offenses "is in" certain counties. For consistency in terminology, throughout this chapter, the revised law substitutes "may be prosecuted in" for the quoted language because, in this context, the phrases have the same meaning.

1	Revised Law
2	Art. 13A.152. SEXUAL ASSAULT. Sexual assault may be
3	prosecuted in any county:
4	(1) in which the offense was committed; or
5	(2) in which the victim was abducted, if applicable,
6	or through or into which the victim was transported in the course of
7	the abduction and sexual assault. (Code Crim. Proc., Art. 13.15
8	(part).)
9	Source Law
10 11 12 13 14 15	Art. 13.15. SEXUAL ASSAULT. Sexual assault may be prosecuted in the county in which it is committed, in the county in which the victim is abducted, or in any county through or into which the victim is transported in the course of the abduction and sexual assault
16	SUBCHAPTER E. OFFENSES AGAINST THE FAMILY
17	Revised Law
18	Art. 13A.201. BIGAMY. Bigamy may be prosecuted in any
19	county in which:
20	(1) the bigamous marriage occurred;
21	(2) the parties to the bigamous marriage live together
22	as spouses; or
23	(3) a party to the bigamous marriage not charged with
24	the offense resides. (Code Crim. Proc., Art. 13.14.)
25	Source Law
26 27 28 29 30 31 32 33 34	Art. 13.14. BIGAMY. Bigamy may be prosecuted:
35	Revisor's Note
36	(1) Articles 13.14(2) and (3), Code of Criminal
37	Procedure, state that bigamy may be prosecuted in
38	certain counties "in this State." The revised law
39	omits "in this State" as unnecessary because the Code

of Criminal Procedure only authorizes the prosecution

of offenses in counties in this state.

(2) Article 13.14(2), Code of Criminal 2 3 Procedure, provides that bigamy may be prosecuted in a 4 county in which the parties "live or cohabit together as [spouses]." The revised law omits "or cohabit" as 5 redundant because, in this context, "cohabit together" 6 7 is included in the meaning of "live together." It is clear from the context that the phrase "live or cohabit 8 together as [spouses]" means to live together as 9 spouses or to cohabit together as spouses because if 10 this provision referred separately to the county in 11 12 which the parties live and to the county in which the 13 parties cohabit together as spouses, the 14 provision authorizing prosecution in a county in which 15 a party not charged with the offense resides would be 16 superfluous.

Revised Law

Art. 13A.202. CRIMINAL NONSUPPORT. Criminal nonsupport may be prosecuted in the county in which the person for whom support is not provided resides at the time the information or indictment is presented. (Code Crim. Proc., Art. 13.16.)

22 <u>Source Law</u>

23 Art. 13.16. CRIMINAL NONSUPPORT. Criminal 24 nonsupport may be prosecuted in the county where the 25 offended spouse or child is residing at the time the 26 information or indictment is presented.

27 Revised Law

- Art. 13A.203. PROTECTIVE ORDER OFFENSES. An offense under Section 25.07 or 25.072, Penal Code, may be prosecuted in any county in which:
- 31 (1) the protective order was issued; or
- 32 (2) the offense was committed, without regard to the
- 33 identity or location of the court that issued the protective order.
- 34 (Code Crim. Proc., Art. 13.38.)

Т	Source Law
2 3 4 5 6 7 8	Art. 13.38. VENUE FOR PROTECTIVE ORDER OFFENSES. The venue for an offense under Section 25.07 or 25.072, Penal Code, is in the county in which the order was issued or, without regard to the identity or location of the court that issued the protective order, in the county in which the offense was committed.
9	Revised Law
10	Art. 13A.204. CONTINUOUS VIOLENCE AGAINST THE FAMILY. An
11	offense under Section 25.11, Penal Code, may be prosecuted in any
12	county in which the defendant engaged in the conduct constituting
13	an offense under Section 22.01(a)(1), Penal Code, against a person
14	described by Section 25.11(a), Penal Code. (Code Crim. Proc., Art.
15	13.072.)
16	Source Law
17 18 19 20 21 22 23	Art. 13.072. CONTINUOUS VIOLENCE AGAINST THE FAMILY COMMITTED IN MORE THAN ONE COUNTY. An offense under Section 25.11, Penal Code, may be prosecuted in any county in which the defendant engaged in the conduct constituting an offense under Section 22.01(a)(1), Penal Code, against a person described by Section 25.11(a), Penal Code.
24	SUBCHAPTER F. OFFENSES AGAINST PROPERTY
25	Revised Law
26	Art. 13A.251. THEFT; ORGANIZED RETAIL THEFT; CARGO THEFT.
27	(a) An offense involving property that is stolen in one county and
28	removed to another county may be prosecuted in any county:
29	(1) in which the property was stolen; or
30	(2) through or into which the property was removed.
31	(b) An offense under Section 31.16 or 31.18, Penal Code, may
32	be prosecuted in any county in which an underlying theft could have
33	been prosecuted as a separate offense. (Code Crim. Proc., Art.
34	13.08.)
35	Source Law
36 37 38 39 40 41 42 43 44	Art. 13.08. THEFT; ORGANIZED RETAIL THEFT; CARGO THEFT. (a) Where property is stolen in one county and removed to another county, the offender may be prosecuted either in the county in which the property was stolen or in any other county through or into which the property was removed. (b) An offense under Section 31.16 or 31.18, Penal Code, may be prosecuted in any county in which an underlying theft could have been prosecuted as a

1 separate offense.

Article 13.08(a), Code of Criminal Procedure, 3 provides that "[w]here" property is stolen in one 4 5 county and removed to another county, the "offender" 6 may be prosecuted in certain counties. For clarity and the convenience of the reader, the revised law 7 substitutes "[a]n offense involving" for "[w]here" 8 because it is clear from the context that the provision 9 10 only applies if an offense has been committed. revised law also substitutes "offense" for "offender" 11 for the reason stated in Revisor's Note (1) to Article 12 13A.054. 13

14 Revised Law

- 15 Art. 13A.252. UNAUTHORIZED USE OF A VEHICLE. Unauthorized 16 use of a vehicle may be prosecuted in:
- 17 (1) any county in which the unauthorized use of the 18 vehicle occurred; or
- 19 (2) the county in which the vehicle was originally 20 reported stolen. (Code Crim. Proc., Art. 13.23.)

21 Source Law

22 Art. 13.23. UNAUTHORIZED USE OF A VEHICLE. An offense of unauthorized use of a vehicle may be 24 prosecuted in any county where the unauthorized use of the vehicle occurred or in the county in which the 26 vehicle was originally reported stolen.

27 Revisor's Note

Article 13.23, Code of Criminal Procedure, states
the counties in which "[a]n offense of" unauthorized
use of a vehicle may be prosecuted. The revised law
omits the quoted language for consistency in the
terminology used in the chapter.

33 Revised Law

Art. 13A.253. UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. An offense under Section 31.17, 36 Penal Code, may be prosecuted in:

- 1 (1) any county in which the offense was committed; or
- 2 (2) the county in which the victim resides. (Code
- 3 Crim. Proc., Art. 13.295.)

4 Source Law

Art. 13.295. UNAUTHORIZED ACQUISITION OR TRANSFER OF CERTAIN FINANCIAL INFORMATION. An offense under Section 31.17, Penal Code, may be prosecuted in any county in which the offense was committed or in the county of residence of the person whose financial sight order or payment card information was unlawfully obtained or transferred.

12 Revised Law

- 13 Art. 13A.254. FORGERY. Forgery may be prosecuted in:
- 14 (1) any county in which the writing was:
- 15 (A) forged;
- 16 (B) used or passed or attempted to be used or
- 17 passed; or
- (C) deposited or placed with another person,
- 19 firm, association, or corporation for collection or credit for the
- 20 account of any person, firm, association, or corporation; or
- 21 (2) if the forging and the uttering, using, or passing
- 22 of a forged instrument in writing concerns or affects the title to
- 23 real property in this state, a county in which any part of the
- 24 property is located. (Code Crim. Proc., Art. 13.02.)

25 <u>Source Law</u>

26 FORGERY. Art. 13.02. Forgery may be prosecuted in any county where the writing was forged, or where 27 28 the same was used or passed, or attempted to be used or passed, or deposited or placed with another person, firm, association, or corporation either for 29 30 association, corporation either collection or credit for the account of any person, 31 32 firm, association or corporation. In addition, a forging and uttering, using or passing of forged instruments in writing which concern or affect the 33 34 35 title to land in this State may be prosecuted in the county in which such land, or any part thereof, is 36 37 situated.

38 <u>Revised Law</u>

- 39 Art. 13A.255. CREDIT CARD OR DEBIT CARD ABUSE. An offense
- 40 under Section 32.31, Penal Code, may be prosecuted in any county in
- 41 which:
- 42 (1) the offense was committed; or

1 (2) any person whose credit card or debit card was

2 unlawfully possessed or used resides. (Code Crim. Proc., Art.

3 13.291.)

5

6 7

8

10

28

4 Source Law

Art. 13.291. CREDIT CARD OR DEBIT CARD ABUSE. An offense under Section 32.31, Penal Code, may be prosecuted in any county in which the offense was committed or in the county of residence for any person whose credit card or debit card was unlawfully possessed or used by the defendant.

11 Revised Law

- 12 Art. 13A.256. HINDERING SECURED CREDITORS. An offense 13 involving secured property that is taken from one county and 14 unlawfully disposed of in another county or state may be prosecuted 15 in the county:
- 16 (1) in which the secured property was disposed of;
- 17 (2) from which the secured property was removed; or
- 18 (3) in which the security agreement is filed. (Code
- 19 Crim. Proc., Art. 13.09.)

20 Source Law

21 Art. 13.09. HINDERING SECURED CREDITORS. 22 is county property taken from one secured and unlawfully disposed of in another county or state, the 23 offender may be prosecuted either in the county in 24 which such property was disposed of, or in the county 25 26 from which it was removed, or in the county in which 27 the security agreement is filed.

<u>Revisor's Note</u>

Article 13.09, Code of Criminal 29 Procedure, provides that "[i]f" secured property is taken from 30 31 one county and unlawfully disposed of in another county or state, the "offender" may be prosecuted in 32 certain counties. For clarity and the convenience of 33 the reader, the revised law substitutes "[a]n offense 34 involving" for "[i]f" because it is clear from the 35 context that the provision only applies if an offense 36 37 has been committed. The revised law also substitutes 38 "offense" for "offender" for the reason stated in Revisor's Note (1) to Article 13A.054. 39

1	Revised Law
2	Art. 13A.257. ILLEGAL RECRUITMENT OF AN ATHLETE. Illegal
3	recruitment of an athlete may be prosecuted in any county in which:
4	(1) the offense was committed; or
5	(2) is located the institution of higher education in
6	which the athlete agreed or was influenced to enroll. (Code Crim.
7	Proc., Art. 13.24.)
8	Source Law
9 10 11 12 13 14	Art. 13.24. ILLEGAL RECRUITMENT OF ATHLETES. An offense of illegal recruitment of an athlete may be prosecuted in any county in which the offense was committed or in the county in which is located the institution of higher education in which the athlete agreed to enroll or was influenced to enroll.
15	Revisor's Note
16	Article 13.24, Code of Criminal Procedure,
17	provides that "[a]n offense of" illegal recruitment of
18	an athlete may be prosecuted in certain counties. The
19	revised law omits "an offense of" for the reason stated
20	in the revisor's note to Article 13A.252.
21	Revised Law
22	Art. 13A.258. MISAPPLICATION OF CERTAIN PROPERTY. (a)
23	Except as provided by Subsection (b), an offense involving the
24	misapplication of property held as a fiduciary or property of a
25	financial institution in one county and the removal of that
26	property to another county may be prosecuted in any county:
27	(1) in which the property was misapplied;
28	(2) through or into which the property was removed; or
29	(3) in which the fiduciary was appointed to serve, if
30	applicable.
31	(b) An offense related to misapplication of construction
32	trust funds under Chapter 162, Property Code, must be prosecuted in
33	the county in which the construction project is located. (Code
34	Crim. Proc., Art. 13.32.)
35	Source Law
36 37	Art. 13.32. MISAPPLICATION OF CERTAIN PROPERTY. (a) An offender who misapplies property held as a

1 fiduciary or property of a financial institution in one county and removes the property to another county 2 3 may be prosecuted in the county where the offender misapplied the property, in any other county through or into which the offender removed the property, or, as 5 6 7 applicable, in the county in which the fiduciary was appointed to serve. (b) An offense related to misapplication of construction trust funds under Chapter 162, Property Code, must be prosecuted in the county where the 8 9 10 11 construction project is located. Revisor's Note 12 Article 13.32(a), Code of Criminal Procedure, 13 provides that, for offenses involving misapplication 14 15 certain property, the "offender 16 prosecuted" in certain counties. The revised law substitutes "offense" for "offender" for the reason 17 stated in Revisor's Note (1) to Article 13A.054. 18 19 Revised Law 20 Art. 13A.259. CERTAIN DECEPTIVE PRACTICES. An offense under Section 32.46, 32.48, or 32.49, Penal Code, may be prosecuted 21 22 in any county: 23 from which any material document was sent; or (1)2.4 (2) in which any material document was delivered. (Code Crim. Proc., Art. 13.27 (part).) 25 2.6 Source Law 27 Art. 13.27. SIMULATING LEGAL PROCESS. Αn offense under Section 32.46, 32.48, 32.49, or . . . Penal Code, may be prosecuted either in the county from 28 29 which any material document was sent or in the county 30 31 in which it was delivered. 32 Revised Law 33 Art. 13A.260. FRAUDULENT USE OR POSSESSION OF IDENTIFYING 34 INFORMATION. An offense under Section 32.51, Penal Code, may be 35 prosecuted in: any county in which the offense was committed; or 36 (1)37 (2) the county in which the victim resides. (Code Crim. Proc., Art. 13.29.) 38 39 Source Law 40 Art. 13.29. FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION. An offense under Section 41 32.51, Penal Code, may be prosecuted in any county in which the offense was committed or in the county of 42

1 2 3	residence for the person whose identifying information was fraudulently obtained, possessed, transferred, or used.
4	Revised Law
5	Art. 13A.261. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS
6	DEGREE. An offense under Section 32.52, Penal Code, may be
7	prosecuted in:
8	(1) any county in which an element of the offense
9	occurs; or
10	(2) Travis County. (Code Crim. Proc., Art. 13.30.)
11	Source Law
12 13 14 15	Art. 13.30. FRAUDULENT, SUBSTANDARD, OR FICTITIOUS DEGREE. An offense under Section 32.52, Penal Code, may be prosecuted in the county in which an element of the offense occurs or in Travis County.
16	Revised Law
17	Art. 13A.262. MORTGAGE FRAUD. (a) In this article, "real
18	estate transaction" means a sale, lease, trade, exchange, gift,
19	grant, or other conveyance of a real property interest.
20	(b) Any offense under Chapter 32, Penal Code, that involves
21	a real estate transaction may be prosecuted in:
22	(1) the county in which the property is located;
23	(2) any county in which part of the transaction
24	occurred, including the generation of documentation supporting the
25	transaction; or
26	(3) if the offense is an offense under Section 32.46,
27	32.48, or 32.49, Penal Code, any county described by Subdivision
28	(1) or (2) or authorized by Article 13A.259. (Code Crim. Proc.,
29	Art. 13.271.)
30	Source Law
31 32 33 34 35 36 37 38 39 40 41 42 43	Art. 13.271. PROSECUTION OF MORTGAGE FRAUD. (a) In this article, "real estate transaction" means a sale, lease, trade, exchange, gift, grant, or other conveyance of a real property interest. (b) Any offense under Chapter 32, Penal Code, that involves a real estate transaction may be prosecuted in: (1) the county where the property is located; or (2) any county in which part of the transaction occurred, including the generation of documentation supporting the transaction. (c) An offense under Section 32.46, 32.48, or

32.49, Penal Code, that involves a real estate transaction may also be prosecuted in any county authorized by Article 13.27.

Revisor's Note

Article 13.271(c), Code of Criminal Procedure, provides that an offense under Section 32.46, 32.48, or 32.49, Penal Code, that involves a real estate transaction may be prosecuted in any county authorized by Article 13.27, Code of Criminal Procedure. The relevant portion of Article 13.27 is revised as Article 13A.259 of this chapter. The revised law is drafted accordingly.

13 Revised Law

- Art. 13A.263. COMPUTER OFFENSES. (a) In this article,
- 15 "access," "computer," "computer network," "computer program,"
- 16 "computer system," and "owner" have the meanings assigned by
- 17 Section 33.01, Penal Code.

4

5

6

7

8

9

10

11

- 18 (b) An offense under Chapter 33, Penal Code, may be
- 19 prosecuted in any county:
- 20 (1) that is the principal place of business of the
- 21 owner or lessee of a computer, computer network, or computer system
- 22 involved in the offense;
- 23 (2) in which a defendant had control or possession of:
- 24 (A) any proceeds of the offense; or
- 25 (B) any books, records, documents, property,
- 26 negotiable instruments, computer programs, or other material used
- 27 in furtherance of the offense;
- 28 (3) from which, to which, or through which access to a
- 29 computer, computer network, computer program, or computer system
- 30 was made in violation of Chapter 33, Penal Code, whether by wires,
- 31 electromagnetic waves, microwaves, or any other means of
- 32 communication; or
- 33 (4) in which an individual who is a victim of the
- 34 offense resides. (Code Crim. Proc., Art. 13.25.)

1	Source Law
2 3 4 5 6 7	Art. 13.25. COMPUTER CRIMES. (a) In this section "access," "computer," "computer network," "computer program," "computer system," and "owner" have the meanings assigned to those terms by Section 33.01, Penal Code. (b) An offense under Chapter 33, Penal Code, may
7 8 9 10 11 12 13 14	be prosecuted in: (1) the county of the principal place of business of the owner or lessee of a computer, computer network, or computer system involved in the offense; (2) any county in which a defendant had control or possession of: (A) any proceeds of the offense; or (B) any books, records, documents,
16 17 18 19 20 21 22 23 24 25	property, negotiable instruments, computer programs, or other material used in furtherance of the offense; (3) any county from which, to which, or through which access to a computer, computer network, computer program, or computer system was made in violation of Chapter 33, whether by wires, electromagnetic waves, microwaves, or any other means of communication; or (4) any county in which an individual who is a victim of the offense resides.
26	Revisor's Note
27	Article 13.25(a), Code of Criminal Procedure,
28	provides the definitions of certain words in "this
29	section." The quoted language is a drafting error
30	because Chapter 13, Code of Criminal Procedure, is
31	organized in articles rather than sections. The
32	revised law is drafted accordingly.
33	Revised Law
34	Art. 13A.264. TELECOMMUNICATIONS OFFENSES. An offense
35	under Chapter 33A, Penal Code, may be prosecuted in any county:
36	(1) in which the telecommunications service
37	originated or terminated; or
38	(2) to which the bill for the telecommunications
39	service was or would have been delivered. (Code Crim. Proc., Art.
40	13.26.)
41	Source Law
42 43 44 45 46 47	Art. 13.26. TELECOMMUNICATIONS CRIMES. An offense under Chapter 33A, Penal Code, may be prosecuted in the county in which the telecommunications service originated or terminated or in the county to which the bill for the telecommunications service was or would have been delivered.

- 2 Art. 13A.265. MONEY LAUNDERING. Money laundering may be 3 prosecuted in:
- 4 (1) any county in which the offense was committed; or
- 5 (2) if the prosecution is based on an offense 6 classified as a felony under the Tax Code, any county in which venue 7 is proper under the Tax Code for the offense. (Code Crim. Proc.,
- 8 Art. 13.35.)

11

12

13

14 15

16

17

18

19

20

2.1

22

23

24

25

2.6

27

28

29

30

31

32

33

9 <u>Source Law</u>

Art. 13.35. MONEY LAUNDERING. Money laundering may be prosecuted in the county in which the offense was committed as provided by Article 13.18 or, if the prosecution is based on a criminal offense classified as a felony under the Tax Code, in any county in which venue is proper under the Tax Code for the offense.

Revisor's Note

- (1)Article 13.35, Code of Criminal Procedure, provides that money laundering may be prosecuted in the county in which "the offense was committed as provided by Article 13.18." Article 13.18, Code of Criminal Procedure, revised as Article 13A.001 of this chapter, provides that proper venue for an offense for which venue is not specifically stated is the county in which the offense was committed. Since Article 13.35 specific venue for includes certain а money laundering, the revised law omits "as provided by Article 13.18" as unnecessary.
- (2) Article 13.35, Code of Criminal Procedure, refers to a "criminal offense" classified as a felony under the Tax Code. The revised law omits the term "criminal" as unnecessary because an offense that can be classified as a felony is necessarily a criminal offense.
- 34 SUBCHAPTER G. OFFENSES AGAINST PUBLIC ADMINISTRATION

35 Revised Law

36 Art. 13A.301. OBSTRUCTION OR RETALIATION. An offense under

- 1 Section 36.06(a)(1), Penal Code, may be prosecuted in any county in 2 which: 3 (1)the harm occurs; or 4 (2) the threat to do harm originated or was received. (Code Crim. Proc., Art. 13.37.) 5 6 Source Law Art. 13.37. OBSTRUCTION OR RETALIATION. An offense under Section 36.06(a)(1), Penal Code, may be 7 8 9 prosecuted in any county in which: 10 (1)the harm occurs; or (2) 11 the threat to do harm originated or was 12 received. 13 Revised Law 14 Art. 13A.302. PERJURY. Perjury or aggravated perjury may be prosecuted in any county in which: 15 16 (1)the offense was committed; or 17 the false statement is used or attempted to be used. (Code Crim. Proc., Art. 13.03.) 18 19 Source Law 20 Art. 13.03. PERJURY. Perjury and aggravated prosecuted in the county where 21 be perjury may 22 committed, or in the county where the false statement 2.3 is used or attempted to be used. 24 Revised Law RECORD OF A FRAUDULENT COURT. An offense 25 Art. 13A.303. 26 under Section 37.13, Penal Code, may be prosecuted in any county: 27 from which any material document was sent; or 28 in which any material document was delivered. (2)(Code Crim. Proc., Art. 13.27 (part).) 29 30 Source Law 31 Art. 13.27. SIMULATING LEGAL PROCESS. offense under Section . . . 37.13, Penal Code, may be prosecuted either in the county from which any 32 33 material document was sent or in the county in which it 34 35 was delivered. 36 Revised Law 37 Art. 13A.304. ESCAPE; UNAUTHORIZED ABSENCE. An offense
- 40 (1) the offense was committed; or

county in which:

38

39

under Section 38.06 or 38.113, Penal Code, may be prosecuted in any

1 (2) the defendant committed the offense for which the 2 defendant was placed in custody, detained, or required to submit to

3 treatment. (Code Crim. Proc., Art. 13.28.)

4 Source Law

5

7

8

9

10

11

12

13 14

15

16

17

18

19

20

21

22

23

24

2.5

26

27

2.8

Art. 13.28. ESCAPE; UNAUTHORIZED ABSENCE. An offense of escape under Section 38.06, Penal Code, or unauthorized absence under Section 38.113, Penal Code, may be prosecuted in:

(1) the county in which the offense of escape or unauthorized absence was committed; or

(2) the county in which the defendant committed the offense for which the defendant was placed in custody, detained, or required to submit to treatment.

Revisor's Note

Article 13.28, Code of Criminal Procedure, provides that an offense "of escape" under Section 38.06, Penal Code, or "unauthorized absence" under Section 38.113, Penal Code, may be prosecuted in the county in which "the offense of escape or unauthorized absence was committed." The revised law omits the references to "escape" and "unauthorized absence" as unnecessary. Article 13.28 references the sections of the Penal Code creating the offenses of escape and unauthorized absence from certain places. No other offenses are referenced or included in those sections or in this article.

SUBCHAPTER H. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

29 Revised Law

- 30 Art. 13A.451. FALSE REPORT TO INDUCE EMERGENCY RESPONSE.
- 31 An offense under Section 42.0601, Penal Code, may be prosecuted in
- 32 any county in which:
- 33 (1) the defendant resides;
- 34 (2) the false report was made; or
- 35 (3) a law enforcement agency or other emergency
- 36 responder responded to the false report. (Code Crim. Proc., Art.
- 37 13.40.)

1	Source Law
2 3 4 5 6 7 8	Art. 13.40. FALSE REPORT TO INDUCE EMERGENCY RESPONSE. An offense under Section 42.0601, Penal Code, may be prosecuted in any county in which: (1) the defendant resides; (2) the false report was made; or (3) a law enforcement agency or other emergency responder responded to the false report.
9	SUBCHAPTER I. ORGANIZED CRIME
10	Revised Law
11	Art. 13A.501. ENGAGING IN ORGANIZED CRIMINAL ACTIVITY.
12	Engaging in organized criminal activity may be prosecuted in:
13	(1) any county in which an act is committed to effect
14	an objective of the combination; or
15	(2) if the prosecution is based on an offense
16	classified as a felony under the Tax Code, any county in which venue
17	is proper under the Tax Code for the offense. (Code Crim. Proc.,
18	Art. 13.21.)
19	Source Law
20 21 22 23 24 25 26 27	Art. 13.21. ORGANIZED CRIMINAL ACTIVITY. The offense of engaging in organized criminal activity may be prosecuted in any county in which any act is committed to effect an objective of the combination or, if the prosecution is based on a criminal offense classified as a felony under the Tax Code, in any county in which venue is proper under the Tax Code for the offense.
28	Revisor's Note
29	Article 13.21, Code of Criminal Procedure, states
30	that "[t]he offense of" engaging in organized criminal
31	activity based on a "criminal offense" classified as a
32	felony under the Tax Code may be prosecuted in certain
33	counties. The revised law omits "[t]he offense of" for
34	the reason stated in the revisor's note to Article
35	13A.252. The revised law also omits the term
36	"criminal" for the reason stated in Revisor's Note (2)
37	to Article 13A.265.
38	SUBCHAPTER J. OFFENSES OUTSIDE PENAL CODE
39	Revised Law
40	Art. 13A.551. FAILURE TO COMPLY WITH SEX OFFENDER

- 1 REGISTRATION STATUTE. An offense under Chapter 62 may be
- 2 prosecuted in any county in which:
- 3 (1) an element of the offense occurs;
- 4 (2) the defendant last registered, verified
- 5 registration, or otherwise complied with a requirement under
- 6 Chapter 62;

18 19

20

21

22

23 24

25

26

27

28 29

30

31

32 33 34

35

36 37 38

39 40

41

- 7 (3) the defendant has indicated that the defendant
- 8 intends to reside, regardless of whether the defendant establishes
- 9 or attempts to establish residency in that county;
- 10 (4) the defendant is placed under custodial arrest for
- 11 an offense subsequent to the defendant's most recent reportable
- 12 conviction or adjudication under Chapter 62; or
- 13 (5) the defendant resides or is found by a peace
- 14 officer, regardless of how long the defendant has been in the county
- or intends to stay in the county. (Code Crim. Proc., Art. 13.31.)

16 <u>Source Law</u>

- Art. 13.31. FAILURE TO COMPLY WITH SEX OFFENDER REGISTRATION STATUTE. An offense under Chapter 62 may be prosecuted in:
 - (1) any county in which an element of the offense occurs;
 - (2) the county in which the person subject to Chapter 62 last registered, verified registration, or otherwise complied with a requirement of Chapter 62;
 - (3) the county in which the person required to register under Chapter 62 has indicated that the person intends to reside, regardless of whether the person establishes or attempts to establish residency in that county;
 - (4) any county in which the person required to register under Chapter 62 is placed under custodial arrest for an offense subsequent to the person's most recent reportable conviction or adjudication under Chapter 62; or
 - (5) the county in which the person required to register under Chapter 62 resides or is found by a peace officer, regardless of how long the person has been in the county or intends to stay in the county.

Revisor's Note

Article 13.31, Code of Criminal Procedure,

provides that an offense under Chapter 62 of that code

may be prosecuted in the county in which "the person

subject to Chapter 62" last complied with a

requirement of that chapter or the county in which "the 1 person required to register under 2 Chapter 3 indicated an intent to reside, was placed under 4 custodial arrest, resides, or is found by a peace officer. Throughout the article, the revised law 5 substitutes "defendant" for the quoted language for 6 consistency in the terminology used in this chapter 7 8 and because a defendant charged with an offense under Chapter 62, Code of Criminal Procedure, is necessarily 9 a person subject to that chapter or required to 10 register under it. 11

12 <u>Revised Law</u>

- Art. 13A.552. CERTAIN OFFENSES 13 COMMITTED AGAINST CHILD COMMITTED TO TEXAS JUVENILE JUSTICE DEPARTMENT. 14 An offense described by Article 104.003(a) committed by an employee or officer 15 16 of the Texas Juvenile Justice Department or a person providing 17 services under a contract with the department against a child committed to the department may be prosecuted in: 18
- 19 (1) any county in which an element of the offense 20 occurred; or
- 21 (2) Travis County. (Code Crim. Proc., Art. 13.34.)

22 <u>Source Law</u>

CERTAIN OFFENSES COMMITTED AGAINST Art. 13.34. COMMITTED $CHTI_1D$ TOTHETEXAS JUVENILE JUSTICE DEPARTMENT. offense described by Αn Article 104.003(a) committed by an employee or officer of the Juvenile Justice Department Texas or а person with providing services under contract а department against a child committed to the department may be prosecuted in:

(1) any county in which an element of the offense occurred; or

(2) Travis County.

34 Revised Law

- 35 Art. 13A.553. POSSESSION AND DELIVERY OF MARIHUANA.
- 36 Possession or delivery of marihuana may be prosecuted in:
- 37 (1) any county in which the offense was committed; or
- 38 (2) with the consent of the defendant, any county that
- 39 is adjacent to and in the same judicial district as any county in

23

24

25

26

27

28

29

30

31

32

which the offense was committed. (Code Crim. Proc., Art. 13.22.)

2 Source Law

Art. 13.22. POSSESSION AND DELIVERY OF MARIHUANA. An offense of possession or delivery of marihuana may be prosecuted in the county where the offense was committed or with the consent of the defendant in a county that is adjacent to and in the same judicial district as the county where the offense was committed.

Revisor's Note

Article 13.22, Code of Criminal Procedure, states that "[a]n offense of" possession or delivery of marihuana may be prosecuted in certain counties. The revised law omits "[a]n offense of" for the reason stated in the revisor's note to Article 13A.252.

Revised Law

- 17 Art. 13A.554. FAILURE TO COMPLY WITH SEXUALLY VIOLENT
- 18 PREDATOR CIVIL COMMITMENT REQUIREMENT. An offense under Section
- 19 841.085, Health and Safety Code, may be prosecuted in:
- 20 (1) any county in which an element of the offense
- 21 occurs; or

3

4

5

10

11

12

13

14

15

16

33

34

35

36

37

38

39

40

- 22 (2) the court that retains jurisdiction over the civil
- 23 commitment proceeding under Section 841.082, Health and Safety
- 24 Code. (Code Crim. Proc., Art. 13.315.)

25 <u>Source Law</u>

26 FAILURE TO COMPLY WITH SEXUALLY Art. 13.315. VIOLENT PREDATOR CIVIL COMMITMENT REQUIREMENT. 27 28 offense under Section 841.085, Health and Safety Code, may be prosecuted in the county in which any element of 29 30 offense occurs or in the court that retains the jurisdiction over the civil commitment proceeding 31 under Section 841.082, Health and Safety Code. 32

Revisor's Note (End of Subchapter)

Article 13.36, Code of Criminal Procedure, provides that stalking may be prosecuted in any county in which an element of the offense occurred. The revised law omits that provision because it duplicates in substance Article 13.18, Code of Criminal Procedure, revised as Article 13A.001 of this chapter.

1	The omitted law reads:
2 3 4	Art. 13.36. STALKING. The offense of stalking may be prosecuted in any county in which an element of the offense occurred.
5	CHAPTER 31A. CHANGE OF VENUE
6	SUBCHAPTER A. AUTHORITY TO CHANGE VENUE
7	Art. 31A.001. CHANGE OF VENUE ON JUDGE'S OWN MOTION161
8	Art. 31A.002. COURT REQUIRED TO CHANGE VENUE IN
9	CERTAIN SEXUAL ASSAULT CASES 164
10	Art. 31A.003. CHANGE OF VENUE ON STATE'S MOTION165
11	Art. 31A.004. CHANGE OF VENUE ON DEFENDANT'S MOTION167
12	Art. 31A.005. CONTESTING MOTION TO CHANGE VENUE;
13	HEARING
14	SUBCHAPTER B. ON CHANGE OF VENUE
15	Art. 31A.051. CLERK'S DUTIES ON CHANGE OF VENUE171
16	Art. 31A.052. USE OF SERVICES OF ORIGINAL VENUE172
17	Art. 31A.053. REMOVAL OF DEFENDANT IN CUSTODY173
18	Art. 31A.054. NO EFFECT ON SUBPOENA, ATTACHMENT, OR
19	BAIL OF WITNESSES
20	SUBCHAPTER C. RETURNING VENUE AFTER TRIAL
21	Art. 31A.151. RETURN TO COUNTY IN WHICH INDICTMENT OR
22	INFORMATION FILED; SUBSEQUENT
23	PROCEEDINGS
24	Art. 31A.152. CLERK'S DUTIES ON RETURN TO COUNTY IN
25	WHICH INDICTMENT OR INFORMATION FILED 177
26	CHAPTER 31A. CHANGE OF VENUE
27	SUBCHAPTER A. AUTHORITY TO CHANGE VENUE
28	Revised Law
29	Art. 31A.001. CHANGE OF VENUE ON JUDGE'S OWN MOTION. (a)
30	In a felony or misdemeanor case punishable by confinement, if the
31	judge is satisfied that a fair and impartial trial cannot be held
32	for any reason in the county in which the case is pending, the judge
33	may on the judge's own motion, after providing reasonable notice to
34	the defendant and the state and hearing evidence on the motion,
35	order a change of venue to:

- 1 (1) any county in the same judicial district as the
- 2 county in which the case is pending or in an adjoining judicial
- 3 district; or

15

16 17

18 19 20

21 22

23

24 25

26

27

28

29 30 31

32

33 34

35

36

37

38

39

40

41

42

43

44

- 4 (2) any county not described by Subdivision (1), after
- 5 10 days' notice is provided.
- 6 (b) An order changing venue under Subsection (a) must state
- 7 the grounds for the change of venue.
- 8 (c) An order changing venue under Subsection (a)(2) is
- 9 grounds for reversal if, on timely contest by the defendant, the
- 10 record of the contest affirmatively shows that any county described
- 11 by Subsection (a)(1) is not subject to the same conditions that
- 12 required the change of venue. (Code Crim. Proc., Art. 31.01.)

13 <u>Source Law</u>

Art. 31.01. ON COURT'S OWN MOTION. Whenever in felony or misdemeanor punishable case of anv confinement, the judge presiding shall be satisfied that a trial, alike fair and impartial to the accused and to the State, cannot, from any cause, be had in the county in which the case is pending, he may, upon his own motion, after due notice to accused and the State, and after hearing evidence thereon, order a change of venue to any county in the judicial district in which such county is located or in an adjoining district, stating in his order the grounds for such change of The judge, upon his own motion, after ten days venue. notice to the parties or their counsel, may order a change of venue to any county beyond an adjoining district; provided, however, an order changing venue to a county beyond an adjoining district shall be grounds for reversal if, upon timely contest by the defendant, the record of the contest affirmatively shows that any county in his own and the adjoining district is not subject to the same conditions which required the transfer.

Revisor's Note

(1) Article 31.01, Code of Criminal Procedure, provides that notice must be provided to the "accused and the State" and a hearing held, before a judge may, on the judge's own motion, order a change of venue to certain counties. The article further provides that for the judge to order on the judge's own motion a change of venue to a county beyond those counties, 10 days' notice to "the parties or their counsel" must be provided. Throughout this chapter, the revised law

- substitutes "defendant" for "accused" because, in this context, the terms are synonymous and the former is more commonly used in the Code of Criminal Procedure. The revised law also omits the reference to "the parties or their counsel" because it is included in the meaning of "accused and the State."
- (2) Article 31.01, Code of Criminal Procedure, authorizes the judge in certain criminal cases to transfer the case to any county in the same judicial district as the county in which the case is pending, in an "adjoining district," or beyond an "adjoining district." For clarity and the convenience of the reader, throughout this chapter the revised substitutes "adjoining judicial district" for "adjoining district" because it is clear from the context that an "adjoining district" means an "adjoining judicial district."
- Article 31.01, Code of Criminal Procedure, requires that the grounds for an order changing venue on the judge's own motion to any county in the same judicial district as the county in which the case is pending or in an adjoining judicial district be stated in the order. Although this requirement appears to apply only to an order changing venue to one of the counties specified above, it is clear from the context that this requirement applies to all orders changing venue on the judge's own motion regardless of the county to which venue is changed. The first sentence of the article, while facially limited to orders changing venue to a county in the same judicial district as the county in which the case is pending or in an adjoining judicial district, contains all the provisions regarding when a change of venue on the judge's own motion is proper: (1) the types of cases to which the

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

article applies (felony or misdemeanor cases punishable by confinement); (2) the conditions that may justify a change of venue on the judge's own motion (if a fair and impartial trial cannot be held for any reason in the county in which the case is pending); (3) the prerequisites that must be satisfied before an order changing venue on the judge's own motion may be (notice and hearing); and a (4)requirement for such an order to state the grounds for the change of venue. The second sentence of the article, by contrast, does not restate any of these provisions but provides for a change of venue on the judge's own motion to a county other than the counties specified in the first sentence with a heightened notice requirement (10 days' notice) and mandates the reversal of such an order if it is shown that any of the counties specified in the first sentence are "not subject to the same conditions which required the transfer." If the general provisions in the first sentence did not apply to the second sentence, however, there would be no requirement that any "conditions" exist to require the change of venue to a county other than the counties specified in the first sentence. Further, under that interpretation, the provisions in the first sentence regarding the scope of the article and the prerequisites for entering an order would not apply to orders made under the second sentence either. Because the structure of the article clearly contemplates that the general provisions in the first sentence apply to orders changing venue as provided under the second sentence, the revised law is drafted accordingly.

33 Revised Law

34 Art. 31A.002. COURT REQUIRED TO CHANGE VENUE IN CERTAIN

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

2.0

21

22

23

24

25

26

27

28

29

30

31

- 1 SEXUAL ASSAULT CASES. In a sexual assault case, a district court
- 2 shall order a change of venue when necessary to secure a speedy
- 3 trial. (Code Crim. Proc., Art. 13.15 (part).)

4 Source Law

5

6

7

8

9

10 11

12

13

14

15

16

17

18

19

20

21

22

2.3

24

25

26

27

Art. 13.15. SEXUAL ASSAULT. [Sexual assault may be prosecuted in the county in which it is committed, in the county in which the victim is abducted, or in any county through or into which the victim is transported in the course of the abduction and sexual assault.] . . . The district courts are authorized and directed to change the venue in such cases whenever it shall be necessary to secure a speedy trial.

Revisor's Note

Article 13.15, Code of Criminal Procedure, requires a district court to "change the venue" when necessary to secure a speedy trial. For clarity and consistency in terminology used in this chapter, the revised law substitutes "order a change of venue" for the quoted language. Chapter 31, Code of Criminal Procedure, revised in this chapter, governs change of venue in criminal cases. That chapter consistently refers to a judge ordering a change of venue and to an order changing venue. It is clear from the context that to change venue, a judge must order the change. The revised law is drafted accordingly.

Revised Law

- Art. 31A.003. CHANGE OF VENUE ON STATE'S MOTION. (a) In a
- $29\,\,$ felony or misdemeanor case punishable by confinement, the attorney
- 30 representing the state may file a written motion requesting a
- 31 change of venue on the basis that:
- 32 (1) a fair and impartial trial cannot be safely and
- 33 speedily held because of:
- 34 (A) existing combinations or influences in favor
- 35 of the defendant; or
- 36 (B) the lawless condition of affairs in the
- 37 county; or
- 38 (2) the life of the prisoner or of any witness would be

- 1 jeopardized by a trial in the county in which the case is pending.
- 2 (b) On receipt of a motion filed under Subsection (a), the
- 3 judge shall:

- (1) hear evidence on the motion; and
- 5 (2) if the judge is satisfied that the motion is
- 6 sufficiently supported and that justice will be served by granting
- 7 the motion, order a change of venue to any county in the judicial
- 8 district in which the case is pending or in an adjoining judicial
- 9 district. (Code Crim. Proc., Art. 31.02.)

10 Source Law

Art. 31.02. STATE MAY HAVE. Whenever the district or county attorney shall represent in writing to the court before which any felony or misdemeanor case punishable by confinement, is pending, that, by reason of existing combinations or influences in favor of the accused, or on account of the lawless condition of affairs in the county, a fair and impartial trial as between the accused and the State cannot be safely and speedily had; or whenever he shall represent that the life of the prisoner, or of any witness, would be jeopardized by a trial in the county in which the case is pending, the judge shall hear proof in relation thereto, and if satisfied that such representation is well-founded and that the ends of public justice will be subserved thereby, he shall order a change of venue to any county in the judicial district in which such county is located or in an adjoining district.

Revisor's Note

authorizes a change of venue in certain cases when "the district or county attorney shall represent in writing to the court before which [the case] is pending" that certain conditions exist in the county in which the case is pending. For consistency in terminology, the revised law substitutes "attorney representing the state" for "district or county attorney" because "attorney representing the state" is more commonly used in the Code of Criminal Procedure. Additionally, the revised law substitutes "file a written motion" for "represent in writing to the court" because, in this context, the phrases have the same meaning and the former is more consistent with modern usage. The

- revised law also omits "to the court before which [the case] is pending" as unnecessary because a motion must be submitted to the court before which the case is pending and may only be submitted while the case is pending.
- (2) Article 31.02, Code of Criminal Procedure,
 requires a judge to hear "proof" on a motion to change
 venue filed by the attorney representing the state.

 The revised law substitutes "evidence" for "proof"
 because, in this context, the terms are synonymous and
 the former is more commonly used in the Code of
 Criminal Procedure.

13 Revised Law

- Art. 31A.004. CHANGE OF VENUE ON DEFENDANT'S MOTION. 14 (a) In a felony or misdemeanor case punishable by confinement, 15 court may grant a change of venue on the written motion of the 16 defendant, supported by the defendant's affidavit and the affidavit 17 18 of at least two credible persons who are residents of the county in 19 which the prosecution is commenced, if the court determines that the defendant cannot obtain a fair and impartial trial in the county 20 in which the prosecution is commenced as a result of: 21
- 22 (1) a prejudice against the defendant in the county; 23 or
- 24 (2) a dangerous combination against the defendant in 25 the county instigated by influential persons.
- An order changing venue under Subsection (a) to a county 26 other than a county in the same judicial district as the county in 27 which the case is pending or in an adjoining judicial district is 28 grounds for reversal, if on timely contest by the defendant, the 29 30 record of the contest affirmatively shows that any county in the judicial district in which the case is pending or in the adjoining 31 judicial district is not subject to the same conditions that 32 required the change of venue. 33
- 34 (c) On the defendant's motion and with the consent of the

- 1 attorney representing the state, the court may transfer the case to
- 2 another judicial district:

- 3 (1) for the convenience of the parties and witnesses
- 4 and in the interest of justice; or
- 5 (2) if the defendant stipulates that the defendant
- 6 will enter a plea of guilty. (Code Crim. Proc., Art. 31.03.)

7 Source Law

Art. 31.03. GRANTED ON MOTION OF DEFENDANT. (a) A change of venue may be granted in any felony or misdemeanor case punishable by confinement on the written motion of the defendant, supported by his own affidavit and the affidavit of at least two credible persons, residents of the county where the prosecution is instituted, for either of the following causes, the truth and sufficiency of which the court shall determine:

- 1. That there exists in the county where the prosecution is commenced so great a prejudice against him that he cannot obtain a fair and impartial trial; and
- 2. That there is a dangerous combination against him instigated by influential persons, by reason of which he cannot expect a fair trial.

An order changing venue to a county beyond an adjoining district shall be grounds for reversal, if upon timely contest by defendant, the record of the contest affirmatively shows that any county in his own and the adjoining district is not subject to the same conditions which required the transfer.

- (b) For the convenience of parties and witnesses, and in the interest of justice, the court upon motion of the defendant and with the consent of the attorney for the state may transfer the proceeding as to him to another district.
- (c) The court upon motion of the defendant and with the consent of the attorney for the state may transfer the proceedings to another district in those cases wherein the defendant stipulates that a plea of guilty will be entered.

Revisor's Note

- (1) Article 31.03(a), Code of Criminal Procedure, requires the court to determine "the truth and sufficiency" of the defendant's asserted grounds for changing venue. The revised law omits "truth and sufficiency" as unnecessary because, in this context, assessing the truth and sufficiency of a ground asserted in a motion for change of venue is included within the meaning of "determine."
 - (2) Article 31.03(a), Code of Criminal

Procedure, authorizes a court to grant a change of venue on the defendant's motion if, as a result of a dangerous combination against the defendant instigated by influential persons, the defendant cannot "expect a fair trial" in the county. The revised law substitutes "obtain a fair and impartial trial" for the quoted language for consistency in terminology in the article and because the phrases have the same meaning.

- 31.03(a), Code of (3) Article Criminal Procedure, provides that an order changing venue to a county "beyond an adjoining district" is grounds for reversal if the record affirmatively shows that any county "in his own and the adjoining district" is not subject to the same conditions which required the transfer. For clarity and consistency in terminology used in this chapter, the revised law substitutes "other than a county in the same judicial district as the county in which the case is pending or in an adjoining judicial district" for "beyond an adjoining district" because, in this context, the phrases have the same meaning. The language used in this article regarding an order changing venue to a county beyond an adjoining district is identical to the language used in Article 31.01, Code of Criminal Procedure, revised as Article 31A.001 of this chapter, which contains additional language clearly indicating that a county beyond an adjoining district is a county other than a county in the same judicial district as the county in which the case is pending or in an adjoining judicial district. The revised law is drafted accordingly.
- (4) Articles 31.03(b) and (c), Code of Criminal Procedure, refer to the "attorney for the state." For consistency in terminology, the revised law

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

- substitutes "attorney representing the state" for 1 for the state" because "attorney "attorney representing the state" is more commonly used in the Code of Criminal Procedure.
 - (5) Articles 31.03(b) and (c), Code of Criminal Procedure, provide that a court may transfer the "proceeding" or "proceedings" to another judicial district in certain circumstances. For consistency in article, terminology in the the revised substitutes "case" for the quoted language because, in this context, the terms are synonymous.
 - (6) Articles 31.03(b) and (c), Code of Criminal Procedure, grant authority for a court to order a change of venue to another "district" in certain circumstances. For clarity and the convenience of the law substitutes reader, the revised "judicial district" for "district" because it is clear from the context that a "district" means a judicial district.

19 Revised Law

- 2.0 Art. 31A.005. CONTESTING MOTION TO CHANGE VENUE; HEARING.
- The credibility or the means of knowledge of a person making an 21
- 22 affidavit for change of venue may be attacked by the affidavit of a
- credible person. 23

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

- If an affidavit is filed to contest an affidavit for 24
- change of venue as provided by Subsection (a), the judge shall hold 25
- a hearing on the issue and grant or refuse the motion based on the 26
- law and facts in the case. (Code Crim. Proc., Art. 31.04.) 27

28 Source Law

Art. 31.04. MOTION MAY BE CONTROVERTED. The credibility of the persons making affidavit for change 29 30 of venue, or their means of knowledge, may be attacked 31 32 by the affidavit of a credible person. The issue thus formed shall be tried by the judge, and the motion 33 granted or refused, as the law and facts shall warrant. 34

35 Revisor's Note

Article 31.04, Code of Criminal Procedure, 36

1 provides that if a motion for change of venue is contested, the issue shall "be tried" by the judge. 2 3 The revised law substitutes "hold a hearing" for "be 4 tried" because, in this context, the phrases have the same meaning and the former is more commonly used in 5 the Code of Criminal Procedure. See also Henley v. 6 576 S.W.2d 66, 72 (Tex. Crim. App. 8 1978) (holding that Article 31.04 mandates a pretrial 9 evidentiary hearing).

SUBCHAPTER B. ON CHANGE OF VENUE

11 Revised Law

Art. 31A.051. CLERK'S DUTIES ON CHANGE OF VENUE. If a court

orders a change of venue in a criminal case, the clerk of the court

- 14 in which the prosecution is pending shall prepare and transmit to
- 15 the clerk of the court to which the venue is changed:
- 16 (1) a certified copy of the court's order directing the
- 17 change of venue;

10

13

26

27 28

29 30

31 32 33

34

35 36

37 38

39

- 18 (2) a certified copy of the defendant's bail bond or
- 19 personal bond, if any;
- 20 (3) the original papers in the case; and
- 21 (4) a certificate of the transmitting clerk under that
- 22 clerk's official seal that the papers described by Subdivision (3)
- 23 are all the papers on file in the case in the court in which the
- 24 prosecution is pending. (Code Crim. Proc., Art. 31.05.)

25 Source Law

Art. 31.05. CLERK'S DUTIES ON CHANGE OF VENUE. Where an order for a change of venue of any court in any criminal cause in this State has been made the clerk of the court where the prosecution is pending shall make out a certified copy of the court's order directing such change of venue, together with a certified copy of the defendant's bail bond or personal bond, together with all the original papers in said cause and also a certificate of the said clerk under his official seal that such papers are the papers and all the papers on file in said court in said cause; and he shall transmit the same to the clerk of the court to which the venue has been changed.

Revisor's Note

40 Article 31.05, Code of Criminal Procedure, refers

- criminal "cause." 1 to а For consistency
- terminology, throughout this chapter the revised law 2
- substitutes "case" for "cause" because, 3 in this
- 4 context, the terms are synonymous and the former is
- 5 more consistent with modern usage.
- 6 Revised Law
- 7 Art. 31A.052. USE OF SERVICES OF ORIGINAL VENUE.
- judge ordering a change of venue under this chapter may, with the 8
- written consent of the defendant, the defendant's attorney, and the 9
- attorney representing the state: 10
- maintain the original case number on the court's 11 (1)
- 12 docket;
- preside over the case; and 13 (2)
- use the services of the court reporter, the court 14 (3)
- coordinator, and the clerk of the court of original venue. 15
- 16 (b) If a judge takes the actions described by Subsection
- 17 (a):
- (1)the court shall use the courtroom facilities and 18
- any other services or facilities of the judicial district or county 19
- 20 to which venue is changed;
- the jury, if required, must consist of residents 21
- of the judicial district or county to which venue is changed; and 22
- 23 notwithstanding Article 31A.051, the clerk of the
- 24 court of original venue shall:
- maintain the original papers of the case, 25 (A)
- including the defendant's bail bond or personal bond, if any; 26
- 27 (B) make the papers described by Paragraph (A)
- available for trial; and 28
- act as the clerk in the case. 29 (C) (Code Crim.
- 30 Proc., Art. 31.09.)
- 31 Source Law
- CHANGE OF VENUE; USE OF EXISTING 32 Art. 31.09.
- (a) If a change of venue in a criminal case 33 SERVICES.
- is ordered under this chapter, the judge ordering the change of venue may, with the written consent of the 34
- 35
- prosecuting attorney, the defense attorney, and the 36

- defendant, maintain the original case number on its own docket, preside over the case, and use the services of the court reporter, the court coordinator, and the clerk of the court of original venue. The court shall use the courtroom facilities and any other services or facilities of the district or county to which venue is changed. A jury, if required, must consist of residents of the district or county to which venue is changed.
- (b) Notwithstanding Article 31.05, the clerk of the court of original venue shall:
- (1) maintain the original papers of the case, including the defendant's bail bond or personal bond;
 - (2) make the papers available for trial;

16 and 17

1

2

8

9

10

11

12

13 14

15

18

19

20

21

2.2

23

2.4

25

26

27

28

29

30

31

32

33

34

35

36

37

(3) act as the clerk in the case.

Revisor's Note

- Article 31.09(a), Code of Criminal Procedure, refers to the "prosecuting attorney." For consistency in terminology, the revised law substitutes "attorney representing the state" for "prosecuting attorney" because "attorney representing the state" is more commonly used in the Code of Criminal Procedure.
- 31.09(a),Code (2) Article of Criminal Procedure, authorizes a court ordering a change of venue to continue to preside over the case under certain circumstances. Subsection (b) of that article requires the clerk of the court of original venue to perform certain duties with respect to "the case." The revised law clarifies that the duties imposed on the clerk of the court of original venue under Subsection (b) are conditioned on the court exercising the authority granted under Subsection (a) because it is clear from the context that those duties apply only if the court has exercised that authority.

38 <u>Revised Law</u>

- Art. 31A.053. REMOVAL OF DEFENDANT IN CUSTODY. If the defendant is in custody when venue is changed in a criminal case:
- 41 (1) an order shall be entered for:
- 42 (A) the defendant's removal to the county to

- 1 which the venue is changed; and
- 2 (B) the defendant's delivery to the sheriff of
- 3 the county to which the venue is changed before the next succeeding
- 4 term of the court of that county; and
- 5 (2) the sheriff with custody of the defendant shall
- 6 deliver the defendant as directed in the order described by
- 7 Subdivision (1). (Code Crim. Proc., Art. 31.06.)

8 Source Law

9

10

11

12 13

14 15 16

17

18

19

20

21

22

23

2.4

25

26

2.7

28

29

30

31

32

33

34

35

36

37

Art. 31.06. IF DEFENDANT BE IN CUSTODY. When the venue is changed in any criminal action if the defendant be in custody, an order shall be made for his removal to the proper county, and his delivery to the sheriff thereof before the next succeeding term of the court of the county to which the case is to be taken, and he shall be delivered by the sheriff as directed in the order.

Revisor's Note

- (1) Article 31.06, Code of Criminal Procedure, refers to a criminal "action." For consistency in terminology, throughout this chapter the revised law substitutes "case" for "action" because, in this context, the terms are synonymous and the former is more commonly used in the Code of Criminal Procedure.
- Article 31.06, Code of Criminal Procedure, requires, if the defendant is in custody when venue is changed, an order be made for the defendant's removal to the "proper county" and the defendant's delivery to the sheriff of that county by "the sheriff." clarity, the revised law substitutes "county to which venue is changed" for "proper county" because it is clear from the context that the "proper" county is the county to which venue is changed. The revised law also substitutes "the sheriff with custody of the defendant" for "the sheriff" because it is clear from the context that only the sheriff with custody of the defendant has the duty to remove and deliver the defendant to the sheriff of the county to which venue

- 1 is changed.
- 2 Revised Law
- 3 Art. 31A.054. NO EFFECT ON SUBPOENA, ATTACHMENT, OR BAIL OF
- 4 WITNESSES. When venue is changed in a criminal case, any witness
- 5 who has been subpoenaed, attached, or bailed to appear and testify
- 6 in the case:
- 7 (1) is not required to be again subpoenaed, attached,
- 8 or bailed; and
- 9 (2) shall appear before the court to which venue has
- 10 been changed as if there had been no change of venue. (Code Crim.
- 11 Proc., Art. 31.07.)
- 12 <u>Source Law</u>
- Art. 31.07. WITNESS NEED NOT AGAIN BE SUMMONED.

 When the venue in a criminal action has been changed,

 it shall not be necessary to have the witnesses therein
- again subpoenaed, attached or bailed, but all the witnesses who have been subpoenaed, attached or bailed
- to appear and testify in the cause shall be held bound to appear before the court to which the cause has been
- transferred, as if there had been no such transfer.
- 21 SUBCHAPTER C. RETURNING VENUE AFTER TRIAL
- 22 Revised Law
- 23 Art. 31A.151. RETURN TO COUNTY IN WHICH INDICTMENT OF
- 24 INFORMATION FILED; SUBSEQUENT PROCEEDINGS. (a) On the completion
- 25 of a trial in which a change of venue has been ordered and, if
- 26 applicable, after the jury has been discharged, the court, with the
- 27 consent of counsel for the state and the defendant, may return the
- 28 case to the county in which the indictment or information was filed.
- 29 Except as provided by Subsection (b), all subsequent and ancillary
- 30 proceedings, including the pronouncement of sentence after appeals
- 31 have been exhausted, must be heard in the county in which the
- 32 indictment or information was filed.
- 33 (b) A motion for new trial alleging jury misconduct must be
- 34 heard in the county in which the case was tried. The county in which
- 35 the indictment or information was filed must pay the costs of the
- 36 prosecution of the motion.
- 37 (c) Except for the review of a death sentence under Section

- 1 2(h), Article 37.071, or under Section 2(h), Article 37.072, an
- 2 appeal taken in a case returned under this article to the county in
- 3 which the indictment or information was filed must be docketed in
- 4 the appellate district in which that county is located. (Code Crim.
- 5 Proc., Art. 31.08, Secs. 1, 3.)

8

9 10

11

12

13

14

15 16

17 18

19

20

21 22 23

24

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

6 Source Law

Art. 31.08. Sec. 1. (a) RETURN TO COUNTY OF ORIGINAL VENUE. (a) On the completion of a trial in which a change of venue has been ordered and after the jury has been discharged, the court, with the consent of counsel for the state and the defendant, may return in the cause to the original county which indictment or information was filed. Except as provided by Subsection (b) of this section, all subsequent and ancillary proceedings, including the pronouncement of sentence after appeals have been exhausted, must be heard in the county in which the indictment or information was filed.

(b) A motion for new trial alleging jury misconduct must be heard in the county in which the cause was tried. The county in which the indictment or information was filed must pay the costs of the prosecution of the motion for new trial.

Sec. 3. Except for the review of a death sentence under Section 2(h), Article 37.071, or under Section 2(h), Article 37.072, an appeal taken in a cause returned to the original county under this article must be docketed in the appellate district in which the county of original venue is located.

Revisor's Note

- Section 1(a), Article 31.08, Criminal Procedure, refers to the "original" county in the indictment or information was filed. which Throughout this chapter, the revised law omits "original" as unnecessary in this context because it does not add to the clear meaning of the law.
- (2) Section 3, Article 31.08, Code of Criminal Procedure, refers to the "original county" and the "county of original venue." For clarity and consistency in terminology in the article, the revised law substitutes "the county in which the indictment or information was filed" for the quoted phrases because it is clear from the context that the county in which venue originated is the county in which the indictment

1	or information was filed.
2	Revised Law
3	Art. 31A.152. CLERK'S DUTIES ON RETURN TO COUNTY IN WHICH
4	INDICTMENT OR INFORMATION FILED. (a) Except as provided by
5	Subsection (b), on an order returning a case to the county in which
6	the indictment or information was filed as provided by Article
7	31A.151, the clerk of the county in which the case was tried shall:
8	(1) make a certified copy of:
9	(A) the court's order directing the return; and
10	(B) the defendant's bail bond, personal bond, or
11	appeal bond, if any;
12	(2) gather the original papers in the case and certify
13	under official seal that the papers are all the original papers on
14	file in the court in which the case was tried; and
15	(3) transmit the items described by Subdivisions (1)
16	and (2) to the clerk of the court in which the indictment or
17	information was filed.
18	(b) This article does not apply to a proceeding in which the
19	clerk of the court in which the indictment or information was filed
20	was present and performed the duties as clerk for the court under
21	Article 31A.052. (Code Crim. Proc., Art. 31.08, Sec. 2.)
22	Source Law
23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38	Sec. 2. (a) Except as provided by Subsection (b), on an order returning venue to the original county in which the indictment or information was filed, the clerk of the county in which the cause was tried shall: (1) make a certified copy of the court's order directing the return to the original county; (2) make a certified copy of the defendant's bail bond, personal bond, or appeal bond; (3) gather all the original papers in the cause and certify under official seal that the papers are all the original papers on file in the court; and (4) transmit the items listed in this section to the clerk of the court of original venue. (b) This article does not apply to a proceeding in which the clerk of the court of original venue was present and performed the duties as clerk for the court under Article 31.09.
40	Revisor's Note
41	(1) Section 2(a), Article 31.08, Code of

Criminal Procedure, requires the clerk of the county

in which a case was tried to perform certain duties on "an order returning venue." The revised substitutes "an order returning a case" for the quoted language for clarity and consistency in the terminology used in this chapter and because the phrases are synonymous. In addition, because provisions authorizing an order returning venue are in Section 1, Article 31.08, Code of Criminal Procedure, revised in Article 31A.151, the revised law adds a cross-reference to that article for the convenience of the reader.

- (2) Sections 2(a)(4) and (b), Article 31.08, Code of Criminal Procedure, refer to the "court of original venue." For clarity and consistency article, the terminology the revised in law "court in which the substitutes indictment or information was filed" for the quoted phrases because it is clear from the context that the court in which venue originated is the court in which the indictment or information was filed.
- Section 2(b), Article 31.08, (3) Code of Criminal Procedure, provides that "[t]his article" does not apply to a proceeding in which the clerk of the court in which the indictment or information was filed performed the duties as clerk for the court under Article 31.09, Code of Criminal Procedure. The reference to "[t]his article" is a drafting error because Article 31.08, Code of Criminal Procedure, is further divided into sections, and it is clear from the context that the exception applies only to Section 2 of that article. The intention of the exception in Section 2(b), Article 31.08, Code of Criminal Procedure, is clearly to avoid unnecessarily requiring the clerk of the county in which the case was tried to

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

2.8

29

30

31

32

33

1	perfo	rm the duties under Subsection (a) of that
2	secti	on when the clerk of the county acted as the clerk
3	in th	e case under Article 31.09, Code of Criminal
4	Proce	dure. The revised law is drafted accordingly.
5		CHAPTER 45A. JUSTICE AND MUNICIPAL COURTS
6		SUBCHAPTER A. GENERAL PROVISIONS
7	Art. 45A.00	1. CHAPTER PURPOSE AND OBJECTIVES
8	Art. 45A.00	2. DEFINITIONS183
9	Art. 45A.00	3. APPLICABILITY
10	Art. 45A.00	4. RULES OF EVIDENCE
11	Art. 45A.00	5. PROSECUTING ATTORNEY
12	Art. 45A.00	6. GENERAL DUTIES OF MUNICIPAL ATTORNEYS 18
13		SUBCHAPTER B. COURT RECORDS
14	Art. 45A.05	1. ELECTRONIC RECORDS
15	Art. 45A.05	2. COURT SEAL
16	Art. 45A.05	3. DOCKET189
17	Art. 45A.05	4. FILING BY MAIL
18	Art. 45A.05	5. CONFIDENTIAL RECORDS RELATED TO
19		FINE-ONLY MISDEMEANORS
20		SUBCHAPTER C. PRETRIAL PROCEEDINGS
21	Art. 45A.10	1. COMPLAINT
22	Art. 45A.10	2. OBJECTION TO CHARGING INSTRUMENT195
23	Art. 45A.10	3. SERVICE OF PROCESS FOR MUNICIPAL COURT196
24	Art. 45A.10	4. ARREST WARRANT
25	Art. 45A.10	5. ARREST WARRANT WITHOUT COMPLAINT203
26	Art. 45A.10	6. DEFENDANT PLACED IN JAIL
27	Art. 45A.10	7. BAIL
28	Art. 45A.10	8. FELONY OFFENSE COMMITTED IN ANOTHER
29		COUNTY
30		SUBCHAPTER D. TRIAL
31	Art. 45A.15	1. DEFENDANT'S PLEA
32	Art. 45A.15	2. DEFENDANT'S REFUSAL TO PLEAD
33	Art. 45A.15	3. PLEA OF GUILTY OR NOLO CONTENDERE
34		GENERALLY

1	Art.	45A.154.	PLEA OF GUILTY OR NOLO CONTENDERE BY
2			DEFENDANT IN JAIL
3	Art.	45A.155.	JURY WAIVER
4	Art.	45A.156.	JURY SUMMONED
5	Art.	45A.157.	FAILURE TO APPEAR FOR JURY TRIAL 209
6	Art.	45A.158.	ATTORNEY REPRESENTING STATE NOT PRESENT
7			FOR TRIAL
8	Art.	45A.159.	JURY SELECTION AND FORMATION
9	Art.	45A.160.	DEFENDANT'S RIGHT TO ATTORNEY211
10	Art.	45A.161.	ORDER OF ARGUMENT
11	Art.	45A.162.	DIRECTED VERDICT
12	Art.	45A.163.	JURY CHARGE
13	Art.	45A.164.	JURY KEPT TOGETHER DURING DELIBERATION213
14	Art.	45A.165.	MISTRIAL
15	Art.	45A.166.	VERDICT
16			SUBCHAPTER E. NEW TRIAL AND APPEAL
17	Art.	45A.201.	NEW TRIAL
18	Art.	45A.202.	APPEAL
19	Art.	45A.203.	APPEAL BOND
20	Art.	45A.204.	EFFECT OF APPEAL
21		SU	JBCHAPTER F. JUDGMENT, FINES, AND COSTS
22	Art.	45A.251.	JUDGMENT
23	Art.	45A.252.	SUFFICIENCY OF RESOURCES TO PAY FINES OR
24			COSTS
25	Art.	45A.253.	DISCHARGING FINES OR COSTS221
26	Art.	45A.254.	COMMUNITY SERVICE TO SATISFY FINES OR
27			COSTS
28	Art.	45A.255.	COMMUNITY SERVICE IN CERTAIN CASES
29			INVOLVING DEFERRED DISPOSITION227
30	Art.	45A.256.	FORFEITURE OF CASH BOND TO SATISFY FINES
31			AND COSTS; MOTION FOR NEW TRIAL228
32	Art.	45A.257.	WAIVER OF PAYMENT OF FINES AND COSTS 230
33	Art.	45A.258.	RECONSIDERATION OF SATISFACTION OF FINES
34			OR COSTS

1	Art. 45A.259.	CAPIAS PRO FINE
2	Art. 45A.260.	APPEARANCE BY TELEPHONE OR
3		VIDEOCONFERENCE
4	Art. 45A.261.	COMMITMENT
5	Art. 45A.262.	DISCHARGED FROM JAIL
6	Art. 45A.263.	CIVIL COLLECTION OF FINES AND COSTS
7		AFTER JUDGMENT242
8	Art. 45A.264.	COLLECTION OF FINES AND COSTS BY
9		MUNICIPALITY
10		SUBCHAPTER G. DEFERRED DISPOSITION
11	Art. 45A.301.	APPLICABILITY
12	Art. 45A.302.	DEFERRED DISPOSITION
13	Art. 45A.303.	DEFERRED DISPOSITION REQUIREMENTS 246
14	Art. 45A.304.	DEFERRED DISPOSITION REQUIREMENTS:
15		MOVING VIOLATION COMMITTED BY YOUNG
16		DEFENDANT
17	Art. 45A.305.	DISMISSAL OF COMPLAINT ON COMPLIANCE
18		WITH JUDICIAL REQUIREMENTS
19	Art. 45A.306.	SHOW CAUSE HEARING ON FAILURE TO COMPLY
20		WITH JUDICIAL REQUIREMENTS
21	Art. 45A.307.	JUDICIAL ACTIONS ON SHOW CAUSE HEARING252
22	SUBCHAPTER	H. DRIVING SAFETY OR MOTORCYCLE OPERATOR COURSE
23		DISMISSAL
24	Art. 45A.351.	APPLICABILITY
25	Art. 45A.352.	DRIVING SAFETY OR MOTORCYCLE OPERATOR
26		TRAINING COURSE COMPLETION
27	Art. 45A.353.	CERTAIN DEFENDANTS ENTITLED TO COMPLETE
28		DRIVING SAFETY OR MOTORCYCLE OPERATOR
29		TRAINING COURSE
30	Art. 45A.354.	CONTENT OF NOTICE TO APPEAR
31	Art. 45A.355.	EXTENSION FOR GOOD CAUSE
32	Art. 45A.356.	JUDICIAL ACTIONS FOLLOWING PLEA; SHOW
33		CAUSE HEARING
34	Art. 45A.357.	EFFECT OF DISMISSAL OR COURSE COMPLETION 265

1	Art.	45A.358.	ADDITIONAL FINES AND FEES RELATING TO
2			COURSE REQUEST
3	Art.	45A.359.	DRIVING RECORD RETRIEVAL AND RELATED FEE267
4			SUBCHAPTER I. OTHER DISMISSALS
5	Art.	45A.401.	DISMISSAL OF MISDEMEANOR CHARGE ON
6			COMPLETION OF TEEN COURT PROGRAM269
7	Art.	45A.402.	DISMISSAL OF COMPLAINT ON COMMITMENT OF
8			PERSON WITH CHEMICAL DEPENDENCY273
9	Art.	45A.403.	DISMISSAL OF PARENT CONTRIBUTING TO
10			NONATTENDANCE CHARGE
11		S	UBCHAPTER J. CASES INVOLVING JUVENILES
12	Art.	45A.451.	JUVENILE CASE MANAGERS276
13	Art.	45A.452.	PLEA; APPEARANCE BY DEFENDANT AND PARENT 282
14	Art.	45A.453.	CHILD TAKEN INTO CUSTODY283
15	Art.	45A.454.	CONDUCT ALLEGED ON SCHOOL PROPERTY288
16	Art.	45A.455.	CHILD TAKEN INTO CUSTODY FOR VIOLATION
17			OF JUVENILE CURFEW OR ORDER289
18	Art.	45A.456.	CONTINUING OBLIGATION TO APPEAR FOR
19			UNADJUDICATED CHILD, NOW ADULT;
20			OFFENSE
21	Art.	45A.457.	FINDING THAT OFFENSE COMMITTED
22	Art.	45A.458.	FINDING OF ELECTRONIC TRANSMISSION OF
23			CERTAIN VISUAL MATERIAL DEPICTING
24			MINOR
25	Art.	45A.459.	COMMUNITY SERVICE TO SATISFY FINES OR
26			COSTS FOR CERTAIN JUVENILE DEFENDANTS299
27	Art.	45A.460.	COMMUNITY SERVICE TO SATISFY FINES OR
28			COSTS FOR CERTAIN JUVENILE DEFENDANTS
29			FOR OFFENSES ON SCHOOL GROUNDS 302
30	Art.	45A.461.	FAILURE TO PAY FINE OR APPEAR
31	Art.	45A.462.	CONFIDENTIAL RECORDS RELATED TO CERTAIN
32			CHARGES AGAINST OR CONVICTIONS OF
33			CHILD

1	Art. 45A.463. EXPUNCTION OF CERTAIN RECORDS OF CHILD
2	OR MINOR
3	Art. 45A.464. EXPUNCTION OF RECORDS RELATED TO FAILURE
4	TO ATTEND SCHOOL
5	CHAPTER 45A. JUSTICE AND MUNICIPAL COURTS
6	SUBCHAPTER A. GENERAL PROVISIONS
7	Revised Law
8	Art. 45A.001. CHAPTER PURPOSE AND OBJECTIVES. (a) The
9	purpose of this chapter is to establish procedures for processing
10	cases under the criminal jurisdiction of the justice and municipal
11	courts.
12	(b) This chapter is intended and shall be construed to
13	achieve the following objectives:
14	(1) to provide fair notice and a meaningful
15	opportunity to be heard to a person appearing in a criminal
16	proceeding in a justice or municipal court;
17	(2) to ensure appropriate dignity in court procedure
18	without undue formalism;
19	(3) to promote adherence to rules with sufficient
20	flexibility to serve the ends of justice; and
21	(4) to process cases without unnecessary expense or
22	delay. (Code Crim. Proc., Art. 45.001.)
23	Source Law
24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40	Art. 45.001. OBJECTIVES OF CHAPTER. The purpose of this chapter is to establish procedures for processing cases that come within the criminal jurisdiction of the justice courts and municipal courts. This chapter is intended and shall be construed to achieve the following objectives: (1) to provide fair notice to a person appearing in a criminal proceeding before a justice or municipal court and a meaningful opportunity for that person to be heard; (2) to ensure appropriate dignity in court procedure without undue formalism; (3) to promote adherence to rules with sufficient flexibility to serve the ends of justice; and (4) to process cases without unnecessary expense or delay.
41	Revised Law
42	Art. 45A.002. DEFINITIONS. In this chapter:

- 1 (1) "Complaint" means a sworn allegation charging an
- 2 accused person with the commission of an offense.
- 3 (2) "Cost" includes any fee, including a reimbursement
- 4 fee, imposed on a defendant by a justice or judge, unless the
- 5 context clearly indicates otherwise. (Code Crim. Proc., Arts.
- 6 45.004, 45.018(a).)

13

14

15

24

26

27

28 29 30

31

32 33

34

35

36

37

38

39

40

41

45.002.)

7 Source Law

8 Art. 45.004. GENERAL DEFINITION. Unless the 9 context clearly indicates otherwise, in this chapter, 10 "cost" includes any fee, including a reimbursement 11 fee, imposed on a defendant by the justice or judge.

Art. 45.018. COMPLAINT. (a) For purposes of this chapter, a complaint is a sworn allegation charging the accused with the commission of an offense.

16 Revised Law

- Art. 45A.003. APPLICABILITY. (a) A criminal proceeding in a justice or municipal court shall be conducted in accordance with this chapter.
- (b) If this chapter does not provide a rule of procedure governing an aspect of a case, the justice or judge shall apply the other general provisions of this code to the extent necessary to achieve the objectives of this chapter. (Code Crim. Proc., Art.

25 <u>Source Law</u>

Art. 45.002. APPLICATION OF CHAPTER. Criminal proceedings in the justice and municipal courts shall be conducted in accordance with this chapter, including any other rules of procedure specifically made applicable to those proceedings by this chapter. If this chapter does not provide a rule of procedure governing any aspect of a case, the justice or judge shall apply the other general provisions of this code to the extent necessary to achieve the objectives of this chapter.

Revisor's Note

Article 45.002, Code of Criminal Procedure, provides that criminal proceedings in the justice and municipal courts shall be conducted in accordance with Chapter 45 of that code, "including any other rules of procedure specifically made applicable to those

proceedings by [Chapter 45]." The revised law omits 1 the quoted language as unnecessary because there is no 2 3 reading of "[c]riminal proceedings . . . shall be 4 conducted in accordance with [Chapter 45, Code of Criminal Procedure]" that would not also require the 5 proceedings to be conducted in accordance with "any 6 7 other rules of procedure specifically made applicable to those proceedings by [Chapter 45, Code of Criminal 8 Procedure]." 9

10 Revised Law

- 11 Art. 45A.004. RULES OF EVIDENCE. The rules of evidence that
- 12 apply to the trial of a criminal action in a district court apply to
- 13 a criminal proceeding in a justice or municipal court. (Code Crim.
- 14 Proc., Art. 45.011.)

15 <u>Source Law</u>

- Art. 45.011. RULES OF EVIDENCE. The rules of evidence that govern the trials of criminal actions in the district court apply to a criminal proceeding in a justice or municipal court.
- 20 Revised Law
- 21 Art. 45A.005. PROSECUTING ATTORNEY. (a) A county or 22 district attorney or a deputy county or district attorney shall 23 conduct each prosecution in a justice court.
- (b) Except as otherwise provided by law, a district attorney
 or a deputy district attorney with the consent of the county
 attorney may prosecute an appeal from a justice court.
- (c) A municipal attorney or a deputy municipal attorney shall conduct each prosecution in a municipal court.
- 29 The county attorney of the county (d) in which а municipality is located may also represent the state 30 prosecution in a municipal court in that municipality. The county 31 attorney is not entitled to receive any fees or other compensation 32 33 for representing the state in a prosecution described by this 34 subsection.
- 35 (e) With the consent of the county attorney, a municipal

- 1 attorney or a deputy municipal attorney may prosecute an appeal
- 2 from a municipal court to a county court, county court at law, or
- 3 appellate court. (Code Crim. Proc., Arts. 45.101, 45.201(a), (b),
- 4 (c).)

5 Source Law

- Art. 45.101. JUSTICE COURT PROSECUTIONS. (a) All prosecutions in a justice court shall be conducted by the county or district attorney or a deputy county or district attorney.
- (b) Except as otherwise provided by law, appeals from justice court may be prosecuted by the district attorney or a deputy district attorney with the consent of the county attorney.
- Art. 45.201. MUNICIPAL PROSECUTIONS. (a) All prosecutions in a municipal court shall be conducted by the city attorney of the municipality or by a deputy city attorney.
- (b) The county attorney of the county in which the municipality is situated may, if the county attorney so desires, also represent the state in such prosecutions. In such cases, the county attorney is not entitled to receive any fees or other compensation for those services.
- (c) With the consent of the county attorney, appeals from municipal court to a county court, county court at law, or any appellate court may be prosecuted by the city attorney or a deputy city attorney.

Revisor's Note

- (1) Articles 45.201(a) and (c), Code of Criminal Procedure, refer to a "city attorney" or a "deputy city attorney." Throughout this chapter, the revised law substitutes "municipal attorney" for "city attorney" because, in this context, the terms are synonymous and "municipal attorney" is more consistent with modern usage.
- (2) Article 45.201(b), Code of Criminal Procedure, provides that the county attorney of the county in which a municipality is "situated" may represent the state in prosecutions in a municipal court in that municipality. Throughout this chapter, the revised law substitutes "located" for "situated" because, in this context, the terms are synonymous and "located" is more commonly used in the Code of Criminal Procedure.

1	Revised Law
2	Art. 45A.006. GENERAL DUTIES OF MUNICIPAL ATTORNEYS. The
3	primary duty of a municipal attorney is not to convict, but to see
4	that justice is done. (Code Crim. Proc., Art. 45.201(d).)
5	Source Law
6 7 8	(d) It is the primary duty of a municipal prosecutor not to convict, but to see that justice is done.
9	Revisor's Note
10	Article 45.201(d), Code of Criminal Procedure,
11	provides the primary duty of a "municipal prosecutor."
12	The revised law substitutes "municipal attorney" for
13	"municipal prosecutor" because, in this context, the
14	terms are synonymous and "municipal attorney" is more
15	consistent with modern usage.
16	SUBCHAPTER B. COURT RECORDS
17	Revised Law
18	Art. 45A.051. ELECTRONIC RECORDS. (a) Notwithstanding any
19	other law, a document issued or maintained by a justice or municipal
20	court or a notice or a citation issued by a law enforcement officer
21	may be created by electronic means, including:
22	(1) optical imaging;
23	(2) optical disk;
24	(3) digital imaging; or
25	(4) another electronic reproduction technique that
26	does not permit changes, additions, or deletions to the originally
27	created document.
28	(b) A justice or municipal court may use electronic means
29	to:
30	(1) produce a document required by law to be written;
31	(2) record an instrument, paper, or notice that is
32	permitted or required by law to be recorded or filed; or
33	(3) maintain a docket.
34	(c) Information in a docket may be processed and stored
35	using electronic data processing equipment, at the discretion of

- 1 the justice or judge.
- 2 (d) A justice or municipal court shall maintain original
- 3 documents as provided by law.
- 4 (e) An electronically recorded judgment has the same force
- 5 and effect as a written signed judgment.
- 6 (f) A record created by electronic means is an original
- 7 record or a certification of the original record.
- 8 (g) A printed copy of an optical image of the original
- 9 record printed from an optical disk system is an accurate copy of
- 10 the original record.

18

19 20

21 22

23

24 25

26

27

28

29

30

31

32

33

34 35

36

37 38 39

40

41

42

47

48

- 11 (h) A statutory requirement that a document contain the
- 12 signature of any person, including a judge, clerk of the court, or
- 13 defendant, is satisfied if the document contains that signature as
- 14 captured on an electronic device. (Code Crim. Proc., Arts.
- 15 45.012(a), (b), (c), (d), (e), (f), (h), 45.017(b).)

16 <u>Source Law</u>

- Art. 45.012. ELECTRONICALLY CREATED RECORDS. (a) Notwithstanding any other provision of law, a document that is issued or maintained by a justice or municipal court or a notice or a citation issued by a law enforcement officer may be created by electronic means, including optical imaging, optical disk, digital imaging, or other electronic reproduction technique that does not permit changes, additions, or deletions to the originally created document.
 - (b) The court may use electronic means to:
- (1) produce a document required by law to be written;
- (2) record an instrument, paper, or notice that is permitted or required by law to be recorded or filed; or
 - (3) maintain a docket.
- (c) The court shall maintain original documents as provided by law.
- (d) An electronically recorded judgment has the same force and effect as a written signed judgment.
- (e) A record created by electronic means is an original record or a certification of the original record.
- (f) A printed copy of an optical image of the original record printed from an optical disk system is an accurate copy of the original record.
- (h) A statutory requirement that a document contain the signature of any person, including a judge, clerk of the court, or defendant, is satisfied if the document contains that signature as captured on an electronic device.
- [Art. 45.017]
- (b) The information in the docket may be

processed and stored by the use of electronic data processing equipment, at the discretion of the justice of the peace or the municipal court judge.

4 Revisor's Note

Article 45.017(b), Code of Criminal Procedure, refers to the "justice of the peace or the municipal court judge." Throughout this chapter, the revised law substitutes "justice or judge" for the quoted language for consistency in terminology used in this chapter.

10 Revised Law

- 11 Art. 45A.052. COURT SEAL. (a) A justice or municipal court 12 shall have a court seal.
- 13 (b) The impression of the court seal must be:
- 14 (1) attached to all papers issued out of the justice or
- 15 municipal court except subpoenas; and
- 16 (2) used to authenticate the official acts of the
- 17 clerk and of the recorder.
- 18 (c) A court seal may be created by electronic means,
- 19 including:
- 20 (1) optical imaging;
- 21 (2) optical disk; or
- 22 (3) another electronic reproduction technique that
- 23 does not permit changes, additions, or deletions to an original
- 24 document created by the same type of system. (Code Crim. Proc.,
- 25 Art. 45.012(g).)

26 Source Law

27 A justice or municipal court shall have a 28 court seal, the impression of which must be attached to all papers issued out of the court except subpoenas, 29 which must be used to authenticate the official 30 31 acts of the clerk and of the recorder. A court seal may 32 bе created by electronic means, including optical optical 33 imaging, disk, Οľ other electronic 34 reproduction technique that does not permit changes, 35 additions, or deletions to an original document created by the same type of system. 36

37 <u>Revised Law</u>

Art. 45A.053. DOCKET. The justice or judge of a justice or

39 municipal court or, if directed by the justice or judge, the clerk

40 of the court shall keep a docket containing the following

1	information:
2	(1) the style and file number of each criminal action;
3	(2) the nature of the offense charged;
4	(3) the plea offered by the defendant and the date the
5	plea was entered;
6	(4) the date the warrant, if any, was issued and the
7	return made on the warrant;
8	(5) the date the examination or trial was held;
9	(6) if a trial was held, whether it was by a jury or by
10	the justice or judge;
11	(7) the verdict of the jury, if any, and the date of
12	the verdict;
13	(8) the judgment and sentence of the court and the date
14	each was entered;
15	(9) the motion for new trial, if any, and the decision
16	made on the motion; and
17	(10) whether an appeal was taken and the date of that
18	action. (Code Crim. Proc., Art. 45.017(a).)
19	Source Law
20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40	Art. 45.017. CRIMINAL DOCKET. (a) The justice or judge of each court, or, if directed by the justice or judge, the clerk of the court, shall keep a docket containing the following information: (1) the style and file number of each criminal action; (2) the nature of the offense charged; (3) the plea offered by the defendant and the date the plea was entered; (4) the date the warrant, if any, was issued and the return made thereon; (5) the date the examination or trial was held, and if a trial was held, whether it was by a jury or by the justice or judge; (6) the verdict of the jury, if any, and the date of the verdict; (7) the judgment and sentence of the court, and the date each was given; (8) the motion for new trial, if any, and the decision thereon; and (9) whether an appeal was taken and the date of that action.
42	Revised Law
43	Art. 45A.054. FILING BY MAIL. (a) Notwithstanding any

other law, for purposes of this chapter, a document is considered

- 1 timely filed with the clerk of a justice or municipal court if:
- 2 (1) the document is deposited with the United States
- 3 Postal Service in a first class postage prepaid envelope properly
- 4 addressed to the clerk on or before the date the document is
- 5 required to be filed with the clerk; and
- 6 (2) the clerk receives the document not later than the
- 7 10th day after the date the document is required to be filed with
- 8 the clerk.

16 17

18

19 20

21 22

23

24

25

26 27

28

29

30

31

32

- 9 (b) A legible postmark affixed by the United States Postal
- 10 Service is prima facie evidence of the date the document is
- 11 deposited with the United States Postal Service.
- 12 (c) In this article, "day" does not include Saturday,
- 13 Sunday, or a legal holiday. (Code Crim. Proc., Art. 45.013.)

14 Source Law

- Art. 45.013. FILING WITH CLERK BY MAIL. (a) Notwithstanding any other law, for the purposes of this chapter a document is considered timely filed with the clerk of a court if:
- (1) the document is deposited with the United States Postal Service in a first class postage prepaid envelope properly addressed to the clerk on or before the date the document is required to be filed with the clerk; and
- (2) the clerk receives the document not later than the 10th day after the date the document is required to be filed with the clerk.
- (b) A legible postmark affixed by the United States Postal Service is prima facie evidence of the date the document is deposited with the United States Postal Service.
- (c) In this article, "day" does not include Saturday, Sunday, or a legal holiday.

33 Revised Law

- 34 Art. 45A.055. CONFIDENTIAL RECORDS RELATED TO FINE-ONLY
- 35 MISDEMEANORS. (a) Except as provided by Subsections (b) and (c),
- 36 following the fifth anniversary of the date of a final conviction
- 37 of, or of a dismissal after deferral of disposition for, a
- 38 misdemeanor offense punishable by fine only, all records and files
- 39 and information stored by electronic means or otherwise, from which
- 40 a record or file could be generated, that are held or stored by or
- 41 for a justice or municipal court and relate to the person who was
- 42 convicted of, or who received a dismissal after deferral of

- disposition for, the offense are confidential and may not be 1
- disclosed to the public. 2
- 3 Records, files, and information subject to Subsection
- 4 (a) may be open to inspection only:
- by a judge or court staff; 5 (1)
- 6 by a criminal justice agency for a criminal
- justice purpose, as those terms are defined by Section 411.082, 7
- 8 Government Code;
- 9 (3) by the Department of Public Safety;
- by the attorney representing the state; 10 (4)
- by the defendant or the defendant's counsel; 11 (5)
- (6)if the offense is a traffic offense, by 12
- 13 insurance company or surety company authorized to write motor
- 14 vehicle liability insurance in this state; or
- for the purpose of complying with a requirement 15 (7)
- 16 under federal law, including a disclosure that is required as a
- 17 condition of receiving federal highway funds.
- This article does not apply to records, files, and 18
- 19 information described by Subsection (a) that relate to an offense
- that is sexual in nature, as determined by the holder of the 20
- records, files, or information. (Code Crim. Proc., Art. 45.0218.) 21

22 Source Law

Art. 45.0218. CONFIDENTIAL RECORDS RELATED TO FINE-ONLY MISDEMEANOR. (a) Except as provided by (c), following (b) and Subsections the anniversary of the date of a final conviction of, dismissal after deferral of disposition for, misdemeanor offense punishable by fine only, records and files and information stored by electronic means or otherwise, from which a record or file could be generated, that are held or stored by or for a municipal or justice court and relate to the person who was convicted of, or who received a dismissal after disposition deferral of for, the offense confidential and may not be disclosed to the public.

- (b) Records, files, and information subject to Subsection (a) may be open to inspection only:
- 36 37
 - (1)by judges or court staff;
 - (2) by a criminal justice agency for criminal justice purpose, as those terms are defined by Section 411.082, Government Code;
 (3) by the Department of Public Safety;
 - (4)bу the attorney representing state;
- 45 (5) by the defendant or the defendant's

23

24

25

26

27

28

29

30 31

32 33

34

35

38

39

40

41 42 43

1 2	counsel; (6) if the offense is a traffic offense, an
3 4 5	insurance company or surety company authorized to write motor vehicle liability insurance in this state; or
6 7 8	(7) for the purpose of complying with a requirement under federal law or if federal law requires the disclosure as a condition of receiving
9 L0 L1 L2 L3 L4	federal highway funds. (c) This article does not apply to records, files, and information described by Subsection (a) that relate to an offense that is sexual in nature, as determined by the holder of the records, files, or information.
L5	SUBCHAPTER C. PRETRIAL PROCEEDINGS
L6	Revised Law
L7	Art. 45A.101. COMPLAINT. (a) A complaint is sufficient,
L8	without regard to form, if the complaint substantially satisfies
L9	the following requirements:
20	(1) is in writing;
21	(2) begins with "In the name and by the authority of
22	the State of Texas";
23	(3) either:
24	(A) states the name of the accused person; or
25	(B) if the name of the accused person is unknown,
26	includes a reasonably definite description of the accused person;
27	(4) either:
28	(A) shows that the accused person has committed
29	an offense against the law of this state; or
30	(B) states that the affiant has good reason to
31	believe and does believe that the accused person has committed ar
32	offense against the law of this state;
3	(5) states the date the offense was committed as
34	definitely as the affiant is able to provide;
35	(6) bears the signature or mark of the affiant; and
36	(7) concludes with the words "Against the peace and
37	dignity of the State."
88	(b) If the offense charged is an offense under a municipal
39	ordinance only, the complaint may also conclude with the words
10	"Contrary to the said ordinance."
11	(c) A complaint must allege that the offense was committed:

- 1 (1) in the county in which the complaint is made, if
- 2 filed in justice court; or
- 3 (2) in the territorial limits of the municipality in
- 4 which the complaint is made, if filed in municipal court.
- 5 (d) A complaint may be sworn to before any officer
- 6 authorized to administer oaths.
- 7 (e) A complaint in a municipal court may be sworn to before:
- 8 (1) the municipal judge;
- 9 (2) the clerk of the court or a deputy clerk;
- 10 (3) the municipal secretary; or
- 11 (4) the municipal attorney or a deputy municipal
- 12 attorney.
- 13 (f) In a county with a population of more than two million
- 14 that does not have a county attorney, a complaint for an offense
- 15 under Section 32.41, Penal Code, must be approved by the district
- 16 attorney, regardless of whether a collection proceeding is
- 17 initiated by the district attorney under Subsection (e) of that
- 18 section.

31

32 33 34

35

36

37

38

39 40

41

42

- 19 (g) A defendant is entitled to notice of a complaint against
- 20 the defendant not later than the day before the date of any
- 21 proceeding in the prosecution of the defendant under the complaint.
- 22 The defendant may waive the right to notice granted by this
- 23 subsection. (Code Crim. Proc., Arts. 45.018(b), 45.019(a), (b),
- 24 (c), (d), (e), (g).)

25 Source Law

26 [Art. 45.018] 27 (b) A

- (b) A defendant is entitled to notice of a complaint against the defendant not later than the day before the date of any proceeding in the prosecution of the defendant under the complaint. The defendant may waive the right to notice granted by this subsection.
- Art. 45.019. REQUISITES OF COMPLAINT. (a) A complaint is sufficient, without regard to its form, if it substantially satisfies the following requisites:
 - (1) it must be in writing;
- (2) it must commence "In the name and by the authority of the State of Texas";
- $(\bar{3})$ it must state the name of the accused, if known, or if unknown, must include a reasonably definite description of the accused;
- (4) it must show that the accused has

1 committed an offense against the law of this state, or state that the affiant has good reason to believe and 3 does believe that the accused has committed an offense against the law of this state; 5 (5) it must state the date the offense was 6 7 committed as definitely as the affiant is able to provide; 8 (6) it must bear the signature or mark of the affiant; and (7) 9 10 it must conclude with the 11 "Against the peace and dignity of the State" and, if offense charged is an offense only under 12 13 municipal ordinance, it may also conclude with the words "Contrary to the said ordinance". 14 15 A complaint filed in justice court must (b) allege that the offense was committed in the county in 16 which the complaint is made. 17 18 (c) A complaint filed in municipal court must allege that the offense was committed in the territorial limits of the municipality in which the 19 20 complaint is made. 21 22 A complaint may be sworn to before 23 officer authorized to administer oaths. 24 (e) A complaint in municipal court may be sworn 25 to before: 26 (1)the municipal judge; 27 (2) the clerk of the court or a deputy 28 clerk: 29 (3)the city secretary; or 30 (4)the city attorney or a deputy city 31 attorney. 32 In a county with a population of more than (g) two million that does not have a county attorney, a complaint for an offense under Section 32.41, Penal 33 34 Code, must be approved by the district attorney, 35 36 regardless of whether a collection proceeding is 37 initiated by the district attorney under Section 38 32.41(e), Penal Code. 39 Revisor's Note 40 Article 45.019(e), Code of Criminal Procedure, 41

Article 45.019(e), Code of Criminal Procedure, refers to the "city secretary." The revised law substitutes "municipal secretary" for "city secretary" for the reason stated in Revisor's Note (1) to Article 45A.005.

Revised Law

OBJECTION TO CHARGING INSTRUMENT. 46 Art. 45A.102. If the defendant does not object to a defect, error, or irregularity of 47 48 form or substance in a charging instrument before the date the trial on the merits begins, the defendant waives and forfeits the right to 49 50 object to the defect, error, or irregularity. This article does not prohibit a trial court from requiring that an objection to a 51 charging instrument be made at an earlier time. (Code Crim. Proc., 52

42

43

44

1 Art. 45.019(f).)

3

4

5

6 7 8

9

10

11

12

13

14

15

16

17

18

19

20

21

2 Source Law

(f) If the defendant does not object to a defect, error, or irregularity of form or substance in a charging instrument before the date on which the trial on the merits commences, the defendant waives and forfeits the right to object to the defect, error, or irregularity. Nothing in this article prohibits a trial court from requiring that an objection to a charging instrument be made at an earlier time.

<u>Revisor's Note</u>

Article 45.019(f), Code of Criminal Procedure, provides that nothing in "this article" prohibits a court from requiring certain objections to a charging instrument to be made earlier than the date on which the trial on the merits commences. The revised law retains the reference to "this article" because the only provisions that could possibly be read to limit a court's ability to require objections to be made at a certain time are revised in this article.

Revised Law

- 22 Art. 45A.103. SERVICE OF PROCESS FOR MUNICIPAL COURT. (a)
- 23 All process issued by a municipal court:
- 24 (1) may be served by a peace officer or marshal of the
- 25 municipality in which the court is located; and
- 26 (2) shall be served by a peace officer or marshal
- 27 described by Subdivision (1) if directed by the court.
- 28 (b) Process must be served under Subsection (a) in
- 29 accordance with the law governing a sheriff's or constable's
- 30 service of process issued by a justice court, as applicable.
- 31 (c) A peace officer or marshal of a municipality may serve
- 32 process issued by a municipal court in that municipality anywhere
- 33 in the county or counties in which the municipality is located.
- 34 (Code Crim. Proc., Art. 45.202.)

35 Source Law

Art. 45.202. SERVICE OF PROCESS. (a) All process issuing out of a municipal court may be served and shall be served when directed by the court, by a peace officer or marshal of the municipality within

which it is situated, under the same rules as are provided by law for the service by sheriffs constables of process issuing out of the justice

court, so far as applicable.

1

2 3

4 5

6

7 8

9 10

(b) The peace officer or marshal may serve all process issuing out of a municipal court anywhere in the county in which the municipality is situated. If the municipality is situated in more than one county, the peace officer or marshal may serve the process throughout those counties.

11 Revised Law

- 12 Art. 45A.104. ARREST WARRANT. (a) If a sworn complaint or 13 affidavit based on probable cause has been filed before a justice or municipal court, the justice or judge may issue a warrant for the 14 arrest of the defendant and deliver the warrant to the proper 15 officer to be executed. 16
- 17 (b) A warrant is sufficient if the warrant:
- is issued in the name of "The State of Texas"; 18
- is directed to the proper peace officer or other 19 (2)
- person specifically named in the warrant; 20
- 21 (3) includes a command that the defendant be taken,
- 22 and brought before the authority issuing the warrant, at the time
- and place stated in the warrant; 23
- 24 (4)either:
- states the defendant's name; or 25 (A)
- (B) if the defendant's name 26 is not known,
- 27 describes the defendant as provided in the complaint;
- states that the defendant is accused of an offense 28
- 29 against the law of this state, naming the offense; and
- 30 is signed by the justice or judge, naming the (6)
- office of the justice or judge either in the body of the warrant or 31
- 32 in connection with the signature of the justice or judge.
- Except as inconsistent or in conflict with this chapter, 33
- 34 Chapter 15 applies to a warrant of arrest issued under this article.
- In a county with a population of more than two million 35
- 36 that does not have a county attorney, a justice or judge may not
- issue a warrant under this article for an offense under Section 37
- 32.41, Penal Code, unless the district attorney has approved the 38
- complaint or affidavit on which the warrant is based. 39

- 1 (e) A justice or judge may not issue an arrest warrant for
- 2 the defendant's failure to appear at the initial court setting,
- 3 including failure to appear as required by a citation issued under
- 4 Article 14.06(b), unless:
- 5 (1) the justice or judge provides by telephone or
- 6 regular mail to the defendant notice that includes:
- 7 (A) a date and time, occurring within the 30-day
- 8 period following the date that notice is provided, when the
- 9 defendant must appear before the justice or judge;
- 10 (B) the name and address of the court with
- 11 jurisdiction in the case;
- 12 (C) information regarding alternatives to the
- 13 full payment of any fines or costs owed by the defendant, if the
- 14 defendant is unable to pay that amount;
- 15 (D) a statement that the defendant may be
- 16 entitled to a credit toward any fines or costs owed by the defendant
- 17 if the defendant was confined in jail or prison after the commission
- 18 of the offense for which the notice is given; and
- 19 (E) an explanation of the consequences if the
- 20 defendant fails to appear before the justice or judge as required by
- 21 this article; and
- 22 (2) the defendant fails to appear before the justice
- 23 or judge as required by this article.
- 24 (f) A defendant who receives notice under Subsection (e) may
- 25 request an alternative date or time to appear before the justice or
- 26 judge if the defendant is unable to appear on the date and time
- 27 included in the notice.
- 28 (g) A justice or judge shall recall an arrest warrant for
- 29 the defendant's failure to appear if the defendant voluntarily
- 30 appears and makes a good faith effort to resolve the arrest warrant
- 31 before the warrant is executed. (Code Crim. Proc., Art. 45.014, as
- 32 amended Acts 85th Leg., R.S., Ch. 1127.)
- 33 <u>Source Law</u>
- 34 Art. 45.014. WARRANT OF ARREST. (a) When a

sworn complaint or affidavit based on probable cause has been filed before the justice or municipal court, the justice or judge may issue a warrant for the arrest of the accused and deliver the same to the proper officer to be executed.

- The warrant is sufficient if: (b)
- it is issued in the name of "The State of Texas";
- it is directed to the proper (2) peace officer or some other person specifically named in the warrant;
- (3) it includes a command that the body of the accused be taken, and brought before the authority issuing the warrant, at the time and place stated in the warrant;
- (4)it states the name of the person whose arrest is ordered, if known, or if not known, it describes the person as in the complaint;
- (5) it states that the person is accused of some offense against the laws of this state, naming the offense; and
- (6) it is signed by the justice or judge, naming the office of the justice or judge in the body of the warrant or in connection with the signature of the justice or judge.
- Chapter 15 applies to a warrant of arrest issued under this article, except as inconsistent or in conflict with this chapter.
- (d) In a county with a population of more than two million that does not have a county attorney, a justice or judge may not issue a warrant under this section for an offense under Section 32.41, Penal Code, unless the district attorney has approved the complaint or affidavit on which the warrant is based.
- (e) A justice or judge may not issue an arrest warrant for the defendant's failure to appear at the initial court setting, including failure to appear as required by a citation issued under Article 14.06(b), unless:
- (1)the justice Οľ judge provides telephone or regular mail to the defendant notice that includes:
- (A) a date and time, occurring within the 30-day period following the date that notice is provided, when the defendant must appear before the justice or judge;
- (B) the name and address of the court with jurisdiction in the case;
- (C) information regarding alternatives to the full payment of any fine or costs owed by the defendant, if the defendant is unable to pay that amount;
- (D) a statement that the defendant may be entitled to a credit toward any fine or costs owed by the defendant if the defendant was confined in jail or prison after the commission of the offense for which the notice is given; and
- (E) (E) an explanation of the consequences if the defendant fails to appear before the justice or judge as required by this article; and (2) the defendant fails to appear befo
- the defendant fails to appear before the justice or judge as required by this article.
- (f) A defendant who receives notice under Subsection (e) may request an alternative date or time to appear before the justice or judge if the defendant is unable to appear on the date and time included in the notice.
 - (g) [as added Acts 85th Leg., R.S., Ch. 1127] A

justice or judge shall recall an arrest warrant for the defendant's failure to appear if the defendant voluntarily appears and makes a good faith effort to resolve the arrest warrant before the warrant is executed.

Revisor's Note

- (1) Articles 45.014(a) and (b), Code of Criminal Procedure, refer to the "accused." The revised law substitutes "defendant" for "accused" because, in this context, the terms are synonymous and "defendant" is more commonly used in the Code of Criminal Procedure.
- (2) Article 45.014(b), Code of Criminal Procedure, refers to the "person whose arrest is ordered" and the "person" who is accused. For clarity and consistency in terminology, the revised law substitutes "defendant" for the quoted language because it is clear from the context that the person whose arrest is ordered and the person who is accused is the defendant for whom the warrant is issued.
- (3) Article 45.014(d), Code of Criminal Procedure, prohibits a justice or judge in certain counties from issuing a warrant under that "section" for an offense under Section 32.41, Penal Code, without first obtaining the approval of a district attorney. The quoted language is a drafting error because Chapter 45, Code of Criminal Procedure, is organized in articles rather than sections. The revised law is drafted accordingly.
- (4) Article 45.014(g), Code of Criminal Procedure, as added by Section 9, Chapter 977 (H.B. 351), Acts of the 85th Legislature, Regular Session, 2017, requires a justice or judge to recall an arrest warrant for the defendant's failure to appear if, before the arrest warrant is executed, the defendant voluntarily appears to resolve the warrant and the arrest warrant is resolved. Article 45.014(g), Code

2.6

of Criminal Procedure, as added by Section 8, Chapter 1 1127 (S.B. 1913), Acts of the 85th Legislature, 2 3 Regular Session, 2017, imposes the same requirement in 4 every respect except that, instead of actually resolving the arrest warrant, the defendant need only 5 make a good faith effort to resolve the warrant. 6 Because Article 45.014(g), as added by Chapter 977, 7 has more onerous requirements than Article 45A.014(g), 8 1127, the 9 added bу Chapter statutes as Under Section 311.025, Government 10 irreconcilable. Code (Code Construction Act), if statutes enacted at 11 12 the same or different sessions of the legislature are irreconcilable, the latest 13 statute in of enactment prevails. The date of enactment is the date 14 on which the last legislative vote is taken on the bill 15 The last legislative vote on 16 enacting the statute. Chapter 977 was taken on May 26, 2017. 17 legislative vote on Chapter 1127 was taken on May 28, 18 19 2017. Accordingly, the revised law omits Article 45.014(g), as added by Chapter 977, as superseded by 20 Article 45.014(g), as added by Chapter 1127. 21 The omitted law reads: 22

(g) [as added Acts 85th Leg., R.S., Ch. 977] A justice or judge shall recall an arrest warrant for the defendant's failure to appear if, before the arrest warrant is executed:

<u>Revised Law</u>

Art. 45A.105. ARREST WARRANT WITHOUT COMPLAINT. If a criminal offense that a justice of the peace has jurisdiction to try is committed within the view of the justice, the justice may issue a warrant for the arrest of the offender. (Code Crim. Proc., Art. 45.103.)

23

24

25 26

27

28

29

30

31

32

1 Source Law

2 Art. 45.103. WARRANT WITHOUT COMPLAINT. If a criminal offense that a justice of the peace has jurisdiction to try is committed within the view of the 3 4 5 justice, the justice may issue a warrant for the arrest of the offender. 6

7 Revised Law

- DEFENDANT PLACED IN JAIL. If a peace officer 8 Art. 45A.106.
- is authorized by this title to retain a defendant in custody, the 9
- 10 officer may place the defendant in jail in accordance with this code
- or other law. (Code Crim. Proc., Art. 45.015.) 11

12 Source Law

- 13 Art. 45.015. DEFENDANT PLACED INJAIL.
- Whenever, by the provisions of this title, the peace 14
- 15
- officer is authorized to retain a defendant in custody, the peace officer may place the defendant in jail in accordance with this code or other law. 16
- 17

18 Revised Law

- Art. 45A.107. (a) A justice or judge may require a 19 BAIL.
- 20 defendant to give a personal bond to secure the defendant's
- appearance in accordance with this code. 21
- (b) A justice or judge may not, either instead of or in 22
- addition to the personal bond, require a defendant to give a bail 2.3
- bond unless: 24
- (1)the defendant fails to appear in accordance with 25
- 26 this code with respect to the applicable offense; and
- 27 the justice or judge determines that:
- 28 (A) the defendant has sufficient resources or
- 29 income to give a bail bond; and
- a bail bond is necessary to secure the 30 (B)
- 31 defendant's appearance in accordance with this code.
- If a defendant required to give a bail 32 bond
- 33 accordance with Subsection (b) does not give the bail bond within 48
- 34 hours after the issuance of the applicable order, the justice or
- judge: 35
- 36 (1)shall reconsider the requirement for the defendant
- to give the bail bond and presume that the defendant does not have 37
- sufficient resources or income to give the bond; and 38

- 1 (2) may require the defendant to give a personal bond.
- 2 (d) A defendant may be held in custody if the defendant:
- 3 (1) refuses to give a personal bond; or
- 4 (2) except as provided by Subsection (c), refuses or
- 5 otherwise fails to give a bail bond. (Code Crim. Proc., Art.
- 6 45.016, as amended Acts 85th Leg., R.S., Ch. 1127.)

7 <u>Source Law</u>

8

9

10

11 12 13

14

15

16

17

18

19

20

21 22

23 24

25

26 27 28

29

30 31

32 33

34

35

36 37

38

39

40

41

42

43

44

45

46

47

48

49

Art. 45.016. PERSONAL BOND; BAIL BOND. (a) The justice or judge may require the defendant to give a personal bond to secure the defendant's appearance in accordance with this code.

- accordance with this code.

 (b) The justice or judge may not, either instead of or in addition to the personal bond, require a defendant to give a bail bond unless:
- (1) the defendant fails to appear in accordance with this code with respect to the applicable offense; and
 - (2) the justice or judge determines that:
- (A) the defendant has sufficient resources or income to give a bail bond; and
- (B) a bail bond is necessary to secure the defendant's appearance in accordance with this code.
- (c) [as added Acts 85th Leg., R.S., Ch. 1127] If before the expiration of a 48-hour period following the issuance of the applicable order a defendant described by Subsections (b)(1) and (2) does not give a required bail bond, the justice or judge:
- (1) shall reconsider the requirement for the defendant to give the bail bond and presume that the defendant does not have sufficient resources or income to give the bond; and
- (2) may require the defendant to give a personal bond.
- (d) If the defendant refuses to give a personal bond or, except as provided by Subsection (c), refuses or otherwise fails to give a bail bond, the defendant may be held in custody.

Revisor's Note

Article 45.016(c), Code of Criminal Procedure, as added by Section 10, Chapter 977 (H.B. 351), Acts of the 85th Legislature, Regular Session, 2017, requires a justice or judge to reconsider a requirement that a defendant give bail bond under а certain circumstances. Article 45.016(c), Code of Criminal Procedure, as added by Section 9, Chapter 1127 (S.B. 1913), Acts of the 85th Legislature, Regular Session, 2017, imposes the same requirement under the same circumstances, except that the article also requires the justice or judge to presume that the defendant does not have sufficient resources or income to give the bond and permits the justice or judge to require the defendant to give a personal bond instead. Because Article 45.016(c), as added by Chapter 1127, is more specific in its requirements as compared to Article 45.016(c), as added by Chapter 977, the statutes are irreconcilable. The revised law omits Article 45.016(c), as added by Chapter 977, as superseded by Article 45.016(c), as added by Chapter 977, for the reason stated in Revisor's Note (4) to Article 45A.104.

The omitted law reads:

1

2

3

4

5

6

7

8

9

10

11

12

13 14

15 16 17

18 19 20

21

30

32

33 34 35

36

37 38

39 40 41 (c) [as added Acts 85th Leg., R.S., Ch. 977] If a defendant required to give a bail bond under Subsection (b) remains in custody, without giving the bond, for more than 48 hours after the issuance of the applicable order, the justice or judge shall reconsider the requirement for the defendant to give the bond.

Revised Law

22 Art. 45A.108. FELONY OFFENSE COMMITTED IN ANOTHER COUNTY. 23 If a complaint is made before a justice of the peace that a felony has been committed in a county other than the county in which the 2.4 25 complaint is made, the justice shall issue a warrant for the arrest of the defendant, directed as provided in other cases, commanding 26 that the defendant be arrested and taken before a magistrate of the 2.7 county in which the felony is alleged to have been committed, 28 29 immediately, for examination as provided in other cases.

31 Source Law

Crim. Proc., Art. 45.102.)

OFFENSES ANOTHER Art. 45.102. COMMITTED INCOUNTY. Whenever complaint is made before any justice of the peace that a felony has been committed in any other than a county in which the complaint is made, the justice shall issue a warrant for the arrest of the accused, directed as in other cases, commanding that accused be arrested and taken the before magistrate of the county where such felony is alleged to have been committed, forthwith, for examination as in other cases.

1	Revisor's Note
2	(1) Article 45.102, Code of Criminal Procedure,
3	refers to the "accused." The revised law substitutes
4	"defendant" for "accused" for the reason stated in
5	Revisor's Note (1) to Article 45A.104.
6	(2) Article 45.102, Code of Criminal Procedure,
7	provides that under certain circumstances a defendant
8	shall be arrested and taken before a magistrate
9	"forthwith" for examination. The revised law
10	substitutes "immediately" for "forthwith" because, in
11	this context, the terms are synonymous and
12	"immediately" is more consistent with modern usage.
13	SUBCHAPTER D. TRIAL
14	Revised Law
15	Art. 45A.151. DEFENDANT'S PLEA. (a) A pleading of a
16	defendant in a justice or municipal court may be oral or in writing
17	as directed by the court.
18	(b) After a jury is impaneled, or after the defendant has
19	waived trial by jury, the defendant may enter:
20	(1) a plea of guilty, not guilty, or nolo contendere;
21	or
22	(2) a special plea of double jeopardy as described by
23	Article 27.05.
24	(c) If a defendant is detained in jail before trial, the
25	justice or judge may permit the defendant to enter any of the pleas
26	described by Subsection (b).
27	(d) If a defendant is charged with an offense involving
28	family violence, as defined by Section 71.004, Family Code, the
29	justice or judge must take the defendant's plea in open court.
30	(Code Crim. Proc., Arts. 45.021, 45.0211, 45.023(a), (b).)
31	Source Law
32 33 34 35 36	Art. 45.021. PLEADINGS. All pleading of the defendant in justice or municipal court may be oral or in writing as the court may direct. Art. 45.0211. PLEA BY DEFENDANT CHARGED WITH FAMILY VIOLENCE OFFENSE. (a) In this article, "family

1 2 3 4 5	violence" has the meaning assigned by Section 71.004, Family Code. (b) If a defendant is charged with an offense involving family violence, the judge or justice must take the defendant's plea in open court.
6 7 8 9 10 11 12 13 14	Art. 45.023. DEFENDANT'S PLEA. (a) After the jury is impaneled, or after the defendant has waived trial by jury, the defendant may: (1) plead guilty or not guilty; (2) enter a plea of nolo contendere; or (3) enter the special plea of double jeopardy as described by Article 27.05. (b) If a defendant is detained in jail before trial, the justice or judge may permit the defendant to enter any of the pleas described by Subsection (a).
16	Revised Law
17	Art. 45A.152. DEFENDANT'S REFUSAL TO PLEAD. If a defendant
18	refuses to plead, the justice or judge shall enter a plea of not
19	guilty. (Code Crim. Proc., Art. 45.024.)
20	Source Law
21 22 23	Art. 45.024. DEFENDANT'S REFUSAL TO PLEAD. The justice or judge shall enter a plea of not guilty if the defendant refuses to plead.
24	Revised Law
25	Art. 45A.153. PLEA OF GUILTY OR NOLO CONTENDERE GENERALLY.
26	(a) On the entry of a plea of guilty or nolo contendere, the justice
27	or municipal court may hear proof regarding the offense and assess
28	the punishment.
29	(b) A justice or judge may not accept a plea of guilty or
30	nolo contendere from a defendant in open court unless it appears to
31	the justice or judge that the defendant is mentally competent and
32	the plea is free and voluntary. (Code Crim. Proc., Arts. 45.022,
33	45.0241.)
34	Source Law
35 36 37 38	Art. 45.022. PLEA OF GUILTY OR NOLO CONTENDERE. Proof as to the offense may be heard upon a plea of guilty or a plea of nolo contendere and the punishment assessed by the court.
39 40 41 42 43	Art. 45.0241. ACCEPTANCE OF DEFENDANT'S PLEA. A justice or judge may not accept a plea of guilty or plea of nolo contendere from a defendant in open court unless it appears to the justice or judge that the defendant is mentally competent and the plea is free and voluntary.
45	Revised Law

46 Art. 45A.154. PLEA OF GUILTY OR NOLO CONTENDERE BY

- 1 DEFENDANT IN JAIL. (a) If a defendant who is detained in jail
- 2 enters a plea of quilty or nolo contendere, the justice or judge
- may, after complying with Article 15.17 and advising the defendant 3
- 4 of the defendant's right to trial by jury, as appropriate:
- 5 accept the defendant's plea; (1)
- 6 (2) assess a fine, determine costs, and accept payment
- 7 of the fine and costs;

19

20

21

22 23

24

25

26

27

28

29

30

31

32

33

34

35 36 37

38

39

40

41

42

43

- 8 (3) give the defendant credit for time served;
- 9 (4)determine whether the defendant is indigent; or
- (5) discharge the defendant. 10
- 11 (b) Notwithstanding Article 45A.201(a), following a plea of
- guilty or nolo contendere entered by a defendant detained in jail, a 12
- 13 motion for new trial must be made not later than the 10th day after
- the imposition of judgment and sentence. The justice or judge shall 14
- grant a motion for new trial made under this subsection. 15 (Code
- 16 Crim. Proc., Arts. 45.023(c), (d).)

17 Source Law

- If a defendant who is detained in jail enters a plea of guilty or nolo contendere, the justice or judge may, after complying with Article 15.17 and the defendant of the defendant's right to advising trial by jury, as appropriate:
 (1) accept the def
 - accept the defendant's plea;
- (2) assess a fine, determine costs, and accept payment of the fine and costs;
- (3) give the defendant credit for time served;
- (4)determine whether the defendant indigent; or
- (5)discharge the defendant.
 - Notwithstanding Article 45.037, following a of guilty or nolo contendere entered under Subsection (b), a motion for new trial must be made not later than 10 days after the rendition of judgment and sentence, and not afterward. The justice or judge shall grant a motion for new trial made under this subsection.

Revisor's Note

Article 45.023(d), Code of Criminal Procedure, refers to a plea "entered under Subsection (b)." It is clear from the context provided by Article 45.023(b), revised as Article 45A.151(c) of this chapter, and Article 45.023(c), revised as Subsection (a) of this

article, that a defendant entering a plea under 1 Article 45.023(b) is a defendant who is detained in 2 3 jail. For clarity and convenience of the reader, the 4 revised law substitutes "entered by a defendant detained in jail" for "entered under Subsection (b)" 5 because that subsection authorizes the entry of a plea 6 of guilty or nolo contendere only in relation to a 7 8 defendant who is detained in jail.

9 Revised Law

- 10 Art. 45A.155. JURY WAIVER. (a) A defendant may waive a 11 trial by jury in writing.
- 12 (b) If a defendant waives a trial by jury, the justice or 13 judge shall hear and determine the case without a jury. (Code Crim.
- 14 Proc., Art. 45.025.)

20

21

2.2

23

24

15 <u>Source Law</u>

Art. 45.025. DEFENDANT MAY WAIVE JURY. The accused may waive a trial by jury in writing. If the defendant waives a trial by jury, the justice or judge shall hear and determine the cause without a jury.

Revisor's Note

- (1) Article 45.025, Code of Criminal Procedure, refers to the "accused." The revised law substitutes "defendant" for "accused" for the reason stated in Revisor's Note (1) to Article 45A.104.
- Article 45.025, Code of Criminal Procedure, 2.5 refers to a "cause." Throughout this chapter, 26 27 revised law substitutes "case" for "cause" 28 consistency in terminology and because, in this context, the terms are synonymous and "case" is more 29 consistent with modern usage. 30

31 Revised Law

Art. 45A.156. JURY SUMMONED. (a) If a defendant does not waive a trial by jury, the justice or judge shall issue a writ commanding the proper officer to summon a venire from which six qualified persons shall be selected to serve as jurors in the case.

- 1 (b) Jurors summoned as provided by Subsection (a) shall
- 2 remain in attendance, as jurors in all cases that may come up for
- 3 hearing, until discharged by the justice or municipal court.
- 4 (c) A person summoned as provided by Subsection (a) who
- 5 fails to attend may be fined an amount not to exceed \$100 for
- 6 contempt.
- 7 (d) If a sufficient number of jurors are not in attendance
- 8 as a result of challenges or any other reason, the justice or judge
- 9 shall order the proper officer to summon a sufficient number of
- 10 qualified persons to form the jury. (Code Crim. Proc., Arts.
- 11 45.027, 45.028.)

14 15 16

17

18

19 20

21

22 23

24

25 26 27

28

12 <u>Source Law</u>

- Art. 45.027. JURY SUMMONED. (a) If the accused does not waive a trial by jury, the justice or judge shall issue a writ commanding the proper officer to summon a venire from which six qualified persons shall be selected to serve as jurors in the case.
- (b) The jurors when so summoned shall remain in attendance as jurors in all cases that may come up for hearing until discharged by the court.

(c) Any person so summoned who fails to attend may be fined an amount not to exceed \$100 for contempt.

Art. 45.028. OTHER JURORS SUMMONED. If, from challenges or any other cause, a sufficient number of jurors are not in attendance, the justice or judge shall order the proper officer to summon a sufficient number of qualified persons to form the jury.

<u>Revisor's Note</u>

Article 45.027, Code of Criminal Procedure,
refers to the "accused." The revised law substitutes
"defendant" for "accused" for the reason stated in
Revisor's Note (1) to Article 45A.104.

33 Revised Law

- Art. 45A.157. FAILURE TO APPEAR FOR JURY TRIAL. (a) A justice or municipal court may order a defendant who does not waive a jury trial in a justice or municipal court and who fails to appear for the trial to pay a reimbursement fee for the costs incurred for
- 38 impaneling the jury.
- 39 (b) The justice or municipal court for good cause may 40 release a defendant from the obligation to pay the reimbursement 41 fee under this article.

1	(c) An order issued by a justice or municipal court under
2	this article may be enforced by contempt as provided by Section
3	21.002(c), Government Code. (Code Crim. Proc., Art. 45.026.)
4	Source Law
5 6 7 8 9 10 11 12 13 14 15 16	Art. 45.026. JURY TRIAL; FAILURE TO APPEAR. (a) A justice or municipal court may order a party who does not waive a jury trial in a justice or municipal court and who fails to appear for the trial to pay a reimbursement fee for the costs incurred for impaneling the jury. (b) The justice or municipal court may release a party from the obligation to pay the reimbursement fee under this section for good cause. (c) An order issued by a justice or municipal court under this section may be enforced by contempt as prescribed by Section 21.002(c), Government Code.
17	Revisor's Note
18	(1) Articles 45.026(a) and (b), Code of Criminal
19	Procedure, refer to a "party." The revised law
20	substitutes "defendant" for "party" because, in this
21	context, the terms are synonymous and "defendant" is
22	more commonly used in the Code of Criminal Procedure.
23	(2) Articles 45.026(b) and (c), Code of Criminal
24	Procedure, refer to an obligation to pay the
25	reimbursement fee and an order issued by a justice or
26	municipal court, respectively, under "this section."
27	The revised law substitutes "article" for "section"
28	for the reason stated in Revisor's Note (3) to Article
29	45A.104.
30	Revised Law
31	Art. 45A.158. ATTORNEY REPRESENTING STATE NOT PRESENT FOR
32	TRIAL. If an attorney representing the state is not present when
33	the case is called for trial, the justice or judge may:
34	(1) postpone the trial to a specified date;
35	(2) appoint an attorney pro tem as provided by this
36	code to represent the state; or
37	(3) proceed to trial. (Code Crim. Proc., Art. 45.031.)
38	Source Law
39 40	Art. 45.031. COUNSEL FOR STATE NOT PRESENT. If the state is not represented by counsel when the case

1 is called for trial, the justice or judge may: (1)postpone the trial to a date certain; 2 3 (2) appoint an attorney pro provided by this code to represent the state; or 4 5 (3) proceed to trial.

Revisor's Note

- (1) Article 45.031, Code of Criminal Procedure, refers to "counsel" for the state. For consistency in terminology, the revised law substitutes "attorney representing the state" for "counsel" because, in this context, the terms are synonymous and "attorney representing the state" is more commonly used in the Code of Criminal Procedure.
- (2) Article 45.031, Code of Criminal Procedure, states that under certain circumstances a justice or judge may postpone the trial to a "date certain." The revised law substitutes "specified date" for "date certain" because, in this context, the phrases have the same meaning and "specified date" is more consistent with modern usage.

21 Revised Law

- Art. 45A.159. JURY SELECTION AND FORMATION. (a) In a jury trial in a justice or municipal court, the state, and each defendant in the case, is entitled to three peremptory challenges.
- (b) The justice or judge shall form the jury and administer the appropriate oath in accordance with Chapter 35. (Code Crim.
- 27 Proc., Arts. 45.029, 45.030.)

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

35

28 Source Law

Art. 45.029. PEREMPTORY CHALLENGES. In all jury trials in a justice or municipal court, the state and each defendant in the case is entitled to three peremptory challenges.

Art. 45.030. FORMATION OF JURY. The justice or judge shall form the jury and administer the

appropriate oath in accordance with Chapter 35.

36 Revised Law

- 37 Art. 45A.160. DEFENDANT'S RIGHT TO ATTORNEY. The defendant
- 38 has a right to appear by an attorney as in all other cases. (Code
- 39 Crim. Proc., Art. 45.020(a).)

1	Source Law
2 3 4	Art. 45.020. APPEARANCE BY COUNSEL. (a) The defendant has a right to appear by counsel as in all other cases.
5	Revisor's Note
6	Article 45.020(a), Code of Criminal Procedure,
7	refers to "counsel." For consistency in terminology,
8	the revised law substitutes "attorney" for "counsel"
9	because the terms are synonymous and "attorney" is
10	more commonly used in the Code of Criminal Procedure.
11	Revised Law
12	Art. 45A.161. ORDER OF ARGUMENT. The attorney representing
13	the state may open and conclude the argument in the case. (Code
14	Crim. Proc., Art. 45.020(b).)
15	Source Law
16 17	(b) State's counsel may open and conclude the argument in the case.
18	Revisor's Note
19	Article 45.020(b), Code of Criminal Procedure,
20	refers to "[s]tate's counsel." For consistency in
21	terminology, the revised law substitutes "attorney
22	representing the state" for "state's counsel" because
23	the terms are synonymous and "attorney representing
24	the state" is more commonly used in the Code of
25	Criminal Procedure.
26	Revised Law
27	Art. 45A.162. DIRECTED VERDICT. If, on the trial of a case
28	in a justice or municipal court, the state fails to prove a prima
29	facie case of the offense alleged in the complaint, the defendant is
30	entitled to a directed verdict of not guilty. (Code Crim. Proc.,
31	Art. 45.032.)
32	Source Law
33 34 35 36 37	Art. 45.032. DIRECTED VERDICT. If, upon the trial of a case in a justice or municipal court, the state fails to prove a prima facie case of the offense alleged in the complaint, the defendant is entitled to a directed verdict of "not guilty."

1	Revised Law
2	Art. 45A.163. JURY CHARGE. (a) The judge shall charge the
3	jury.
4	(b) The charge may be made orally or in writing, except that
5	the charge shall be made in writing if required by other law. (Code
6	Crim. Proc., Art. 45.033.)
7	Source Law
8 9 10 11	Art. 45.033. JURY CHARGE. The judge shall charge the jury. The charge may be made orally or in writing, except that the charge shall be made in writing if required by law.
12	Revised Law
13	Art. 45A.164. JURY KEPT TOGETHER DURING DELIBERATION. When
14	the case is submitted to the jury, the jury shall retire in the
15	charge of an officer and be kept together until:
16	(1) the jury agrees to a verdict;
17	(2) the jury is discharged; or
18	(3) the court recesses. (Code Crim. Proc., Art.
19	45.034.)
20	Source Law
21 22 23 24 25	Art. 45.034. JURY KEPT TOGETHER. The jury shall retire in charge of an officer when the cause is submitted to them, and be kept together until they agree to a verdict, are discharged, or the court recesses.
26	Revised Law
27	Art. 45A.165. MISTRIAL. (a) A justice or municipal court
28	shall discharge a jury if the jury fails to agree to a verdict after
29	being kept together a reasonable period.
30	(b) If a jury is discharged under Subsection (a), the
31	justice or judge may impanel another jury as soon as practicable to
32	try the case. (Code Crim. Proc., Art. 45.035.)
33	Source Law
34 35 36 37 38 39	Art. 45.035. MISTRIAL. A jury shall be discharged if it fails to agree to a verdict after being kept together a reasonable time. If a jury is discharged because it fails to agree to a verdict, the justice or judge may impanel another jury as soon as practicable to try such cause.

1 Revised Law

- 2 Art. 45A.166. VERDICT. (a) When the jury has agreed on a 3 verdict, the jury shall bring the verdict into court.
- 4 (b) The justice or judge shall ensure that the verdict is in 5 the proper form and impose the proper judgment and sentence on the
- 6 verdict. (Code Crim. Proc., Art. 45.036.)

7 Source Law

8 Art. 45.036. VERDICT. (a) When the jury has agreed on a verdict, the jury shall bring the verdict into court.

(b) The justice or judge shall see that the verdict is in proper form and shall render the proper judgment and sentence on the verdict.

Revisor's Note

Article 45.036, Code of Criminal Procedure, provides that a justice or judge shall "see" that the verdict is in proper form. The revised law substitutes "ensure" for "see" because, in this context, the terms are synonymous and "ensure" is more consistent with modern usage.

SUBCHAPTER E. NEW TRIAL AND APPEAL

22 Revised Law

- 23 Art. 45A.201. NEW TRIAL. (a) A motion for a new trial must
- 24 be made not later than the fifth day after the imposition of
- 25 judgment and sentence.

11

12

13

14

15

16

17

18

19

20

2.1

- 26 (b) Subject to Subsection (e), not later than the 10th day
- 27 after the date that the judgment is entered, a justice or judge may
- 28 grant the defendant a new trial for good cause shown if the justice
- 29 or judge considers that justice has not been done the defendant in
- 30 the trial of the case.
- 31 (c) If a motion for a new trial is not granted before the
- 32 11th day after the date that the judgment is entered, the motion is
- 33 considered denied.
- (d) If a new trial is granted, the justice or judge shall
- 35 proceed to try the case again as soon as practicable.
- 36 (e) A defendant may be granted not more than one new trial in

1 the same case.

5

6 7

8

14 15

16 17

18

19 20

21 22

23

24

25

26

27

28

29

30

31

32

33

34

- 2 (f) The state is not entitled to a new trial in any case.
- 3 (Code Crim. Proc., Arts. 45.037, 45.038, 45.039, 45.040.)

4 Source Law

Art. 45.037. MOTION FOR NEW TRIAL. A motion for a new trial must be made within five days after the rendition of judgment and sentence, and not afterward.

Art. 45.038. NEW TRIAL GRANTED. (a) Not later than the 10th day after the date that the judgment is entered, a justice or judge may, for good cause shown, grant the defendant a new trial, whenever the justice or judge considers that justice has not been done the defendant in the trial of the case.

(b) If a motion for a new trial is not granted before the 11th day after the date that the judgment is entered, the motion shall be considered denied.

Art. 45.039. ONLY ONE NEW TRIAL GRANTED. Not more than one new trial shall be granted the defendant in the same case. When a new trial has been granted, the justice or judge shall proceed, as soon as practicable, to try the case again.

Art. 45.040. STATE NOT ENTITLED TO NEW TRIAL. In no case shall the state be entitled to a new trial.

Revisor's Note

Article 45.038(a), Code of Criminal Procedure, provides that a justice or judge may grant a new trial under certain circumstances. For the convenience of reader, the revised law the adds "[s]ubject to Subsection (e)" to indicate to the reader that the power to grant a new trial is subject to the limitations contained in Article 45.039, Code Criminal Procedure, revised in this article as Subsection (e).

Revised Law

Art. 45A.202. APPEAL. (a) An appeal from a justice or municipal court, including an appeal from a final judgment in a bond forfeiture proceeding, shall be heard by the county court or, if the county court has no jurisdiction over the case, the proper court in the county.

- 40 (b) A de novo trial shall be held on appeal unless the appeal 41 is:
- 42 (1) taken from a municipal court of record; and
- 43 (2) based on error reflected in the record.

- 1 (c) An appeal may not be dismissed because of:
- 2 (1) the defendant's failure to give notice of appeal in
- 3 open court; or

13

14 15

20

25

26 27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

- 4 (2) the presence of a defect in the transcript.
- 5 (d) In an appeal from the judgment and sentence of a justice
- 6 or municipal court, if the defendant is in custody, the defendant
- 7 shall be committed to jail unless the defendant is released on bail.
- 8 (e) If the court that issued the judgment and sentence being
- 9 appealed is in session, the court must approve the bail. (Code Crim.
- 10 Proc., Arts. 45.042, 45.0425(a) (part), 45.0426(c).)

11 Source Law

Art. 45.042. APPEAL. (a) Appeals from a justice or municipal court, including appeals from final judgments in bond forfeiture proceedings, shall be heard by the county court except in cases where the county court has no jurisdiction, in which counties such appeals shall be heard by the proper court.

(b) Unless the appeal is taken from a municipal

(b) Unless the appeal is taken from a municipal court of record and the appeal is based on error reflected in the record, the trial shall be de novo.

(c) In an appeal from the judgment and sentence of a justice or municipal court, if the defendant is in custody, the defendant is to be committed to jail unless the defendant gives bail.

Art. 45.0425. APPEAL BOND. (a) If the court from whose judgment and sentence the appeal is taken is in session, the court must approve the bail. . . .

[Art. 45.0426]

(c) An appeal may not be dismissed because the defendant failed to give notice of appeal in open court. An appeal by the defendant or the state may not be dismissed on account of any defect in the transcript.

Revisor's Note

Article 45.042(c), Code of Criminal Procedure, provides that a defendant shall be committed to jail in a certain type of appeal unless the defendant "gives" bail. The revised law substitutes "released on" for "gives" because, in this context, the terms are synonymous and "released on" is more consistent with modern usage.

42 Revised Law

Art. 45A.203. APPEAL BOND. (a) An appeal is perfected when the appeal bond has been filed:

- (1) with the justice or judge who tried the case; and 1
- 2 (2) not later than the 10th day after the date the
- 3 judgment was entered.
- 4 If an appeal bond is not timely filed, the appellate (b)
- court does not have jurisdiction over the case and shall remand the 5
- case to the justice or municipal court for execution of the 6
- 7 sentence.
- The amount of an appeal bond may not be less than the 8 (c)
- 9 greater of:
- (1)twice the amount of the fine and costs adjudged 10
- against the defendant; or 11
- 12 (2) \$50.
- If an appeal bond otherwise meets the requirements of 13
- this code, the court, without requiring a court appearance by the 14
- defendant, shall approve the appeal bond in the amount the court 15
- notified the defendant would be approved under Article 27.14(b). 16
- 17 An appeal bond must be made payable to the State of Texas
- and must: 18
- 19 (1)state that the defendant was convicted in the case
- 20 and has appealed; and
- be conditioned on the defendant: 21 (2)
- 22 making a personal appearance before the court
- to which the appeal is taken: 23
- the 24 (i) immediately, if is court in
- 25 session; or
- (ii) if the court is not in session, at the 26
- next regular term of the court, provided that the bond states the 27
- time and place of that session; and 28
- remaining at the court from day to day and 29 (B)
- 30 term to term to answer in the case. (Code Crim. Proc., Arts.
- 45.0425(a) (part), (b), 45.0426(a), (b).) 31
- 32 Source Law
- 33 [Art. 45.0425]
- (a) . . . The amount of an appeal bond may not be less than two times the amount of the fine and costs $% \left(1\right) =\left(1\right) +\left(1\right) +\left($ 34
- 35

adjudged against the defendant, payable to the State of Texas. The appeal bond may not in any case be for an amount less than \$50. If the appeal bond otherwise meets the requirements of this code, the court without requiring a court appearance by the defendant shall approve the appeal bond in the amount the court under Article 27.14(b) notified the defendant would be approved.

(b) An appeal bond shall recite that in the cause the defendant was convicted and has appealed and be conditioned that the defendant shall make the defendant's personal appearance before the court to which the appeal is taken instanter, if the court is in session, or, if the court is not in session, at its next regular term, stating the time and place of that session, and there remain from day to day and term to term, and answer in the cause in the court.

Art. 45.0426. FILING BOND PERFECTS APPEAL. (a) When the appeal bond has been filed with the justice or judge who tried the case not later than the 10th day after the date the judgment was entered, the appeal in such case shall be held to be perfected.

(b) If an appeal bond is not timely filed, the appellate court does not have jurisdiction over the case and shall remand the case to the justice or municipal court for execution of the sentence.

Revisor's Note

Article 45.0425(b), Code of Criminal Procedure, provides that an appeal bond shall be conditioned on the defendant making a personal appearance before the court to which the appeal is taken "instanter," if that court is in session. The revised law substitutes "immediately" for "instanter" because, in this context, the terms are synonymous and "immediately" is more consistent with modern usage.

Revised Law

Art. 45A.204. EFFECT OF APPEAL. All further proceedings in the case in the justice or municipal court must cease when a defendant files the appeal bond required by law with the justice or municipal court. (Code Crim. Proc., Art. 45.043.)

Source Law

Art. 45.043. EFFECT OF APPEAL. When a defendant files the appeal bond required by law with the justice or municipal court, all further proceedings in the case in the justice or municipal court shall cease.

SUBCHAPTER F. JUDGMENT, FINES, AND COSTS

47 Revised Law

48 Art. 45A.251. JUDGMENT. (a) The judgment and sentence for

2.8

- a conviction in a criminal action before a justice or judge is that 1
- 2 the defendant pay the amount of the fine and costs to the state.
- 3 Subject to Articles 45A.253(a) and (b) and Article
- 4 45A.257, the justice or judge may direct the defendant:
- 5 (1)to pay:
- (A) the entire fine and costs when the sentence 6
- 7 is pronounced;
- the entire fine and costs at a later date; or 8 (B)
- 9 a specified portion of the fine and costs at
- designated intervals; 10
- if applicable, to make restitution to a victim of 11
- 12 the offense; and
- to satisfy any other sanction authorized by law. 13
- 14 Restitution made under Subsection (b)(2) may not exceed
- \$5,000 for an offense under Section 32.41, Penal Code. 15
- The justice or judge shall credit the defendant for time 16
- 17 served in jail as provided by Article 42.03. The credit under this
- subsection shall be applied to the amount of the fine and costs at 18
- the rate provided by Article 45A.262. 19
- In addition to credit under Subsection (d), in imposing 20
- a fine and costs in a case involving a misdemeanor punishable by 21
- 22 fine only, the justice or judge shall credit the defendant for any
- period the defendant was confined in jail or prison while serving a 23
- sentence for another offense if that confinement occurred after the 24
- commission of the misdemeanor. The credit under this subsection 25
- shall be applied to the amount of the fine and costs at the rate of 26
- not less than \$150 for each day of confinement. 27
- All judgments, sentences, and final orders of the 28
- justice or judge shall be imposed in open court. (Code Crim. Proc., 29
- 30 Arts. 45.041(a), (b), (b-1), (c), (c-1), (d).)
- 31 Source Law
- Art. 45.041. JUDGMENT. (a) The judgment and sentence, in case of conviction in a criminal action $% \left(1\right) =\left(1\right) \left(1\right$ 32
- 33
- before a justice of the peace or municipal court judge, 34
- 35 shall be that the defendant pay the amount of the fine
- and costs to the state. 36

1 Subject to Subsections (b-2) and (b-3) and 2 Article 45.0491, the justice or judge may direct the 3 defendant: 4 (1)to pay: 5 6 (A) the entire fine and costs when sentence is pronounced; 7 the entire fine and costs at some (B) 8

later date; or a specified portion of the fine (C) and costs at designated intervals;

(2) if applicable, to make restitution to any victim of the offense; and

(3) to satisfy any other authorized by law.

(b-1)Restitution made under Subsection (b)(2) may not exceed \$5,000 for an offense under Section 32.41, Penal Code.

(c) The justice or judge shall credit the defendant for time served in jail as provided by Article 42.03. The credit under this subsection shall be applied to the amount of the fine and costs at the rate provided by Article 45.048.

(c-1)In addition to credit under Subsection (c), in imposing a fine and costs in a case involving a misdemeanor punishable by a fine only, the justice or judge shall credit the defendant for any time the defendant was confined in jail or prison while serving if that confinement a sentence for another offense occurred after the commission of the misdemeanor. credit under this subsection shall be applied to the amount of the fine and costs at the rate of not less than \$150 for each day of confinement.

(d) All judgments, sentences, and final orders of the justice or judge shall be rendered in open

35 court.

9

10 11

12 13

14

15

16

17

18 19 20

21

22

23

24 25

26 27

28

29 30

31

32

33 34

36

45

46

47

48

Revised Law

Art. 45A.252. SUFFICIENCY OF RESOURCES TO PAY FINES OR 37 38 COSTS. (a) Notwithstanding any other provision of this article, Article 45A.251, or Article 45A.253, during or immediately after 39 40 imposing a sentence in a case in which the defendant entered a plea 41 in open court as provided by Article 27.14(a) or 27.16(a), the 42 justice or judge shall inquire whether the defendant has sufficient 43 resources or income to immediately pay all or part of the fine and 44

- If the justice or judge determines that the defendant (b) does not have sufficient resources or income to immediately pay all or part of the fine and costs, the justice or judge shall determine whether the fine and costs should be:
- 49 subject to Article 45A.253(a), required to be paid 50 at a later date or in a specified portion at designated intervals;

costs.

- 1 (2) discharged by performing community service under,
- 2 as applicable, Article 45A.254, 45A.459, or 45A.460;
- 3 waived in full or in part under Article 45A.257; or
- 4 (4)satisfied through any combination of methods under
- Subdivision (1), (2), or (3). (Code Crim. Proc., Art. 45.041(a-1).) 5

Source Law 6

7

8 9 10

11 12 13

14 15

20

21

22

23 24 25

30

31

33

34

35

36

37

38

39

40

- (a-1)Notwithstanding any other provision of this article, during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court as provided by Article 27.14(a) or 27.16(a), the justice or judge shall inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. If the justice or judge determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, the justice or judge shall determine whether the fine and costs should be:
- (1)subject to Subsection (b-2), required to be paid at some later date or in a specified portion at designated intervals;
- (2) discharged by performing community service under, as applicable, Article 45.049, Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of community 82nd Legislature, Regular Session, 2011, Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;
 (3) waived in full or in part under Article
- 45.0491; or
- (4)satisfied through any combination of methods under Subdivisions (1)-(3).

32 Revisor's Note

Article 45.041(a-1), Code of Criminal Procedure, requires a justice or judge to determine whether a defendant's fine and costs should be discharged by performing community service "under Article 45.049." The relevant portion of Article 45.049 is revised as Article 45A.254, and the revised law is drafted accordingly.

Revised Law

- DISCHARGING FINES OR COSTS. (a) In imposing 41 Art. 45A.253. 42 a fine and costs, the justice or judge shall allow the defendant to pay the fine and costs in specified portions at designated 43 44 intervals if the justice or judge determines that the defendant is unable to immediately pay the fine and costs. 45
- (b) A judge may allow a defendant who is a child, as defined 46

- 1 by Article 45A.453(a), to elect at the time of conviction, as
- 2 defined by Section 133.101, Local Government Code, to discharge the
- 3 fine and costs by:
- 4 (1) performing community service or receiving
- 5 tutoring under Article 45A.460, regardless of whether the
- 6 applicable offense occurred at a location specified by Subsection
- 7 (a) of that article; or
- 8 (2) paying the fine and costs in a manner described by
- 9 Article 45A.251(b).
- 10 (c) The defendant must make the election under Subsection
- 11 (b) in writing. The defendant and, if present, the defendant's
- 12 parent, guardian, or managing conservator must sign the election.
- 13 The court shall maintain the written election as a record of the
- 14 court and provide a copy to the defendant.
- 15 (d) Notwithstanding Article 45A.252 or any other provision
- 16 of this chapter, in imposing a fine and costs, the justice or judge
- 17 may not require a defendant who is under the conservatorship of the
- 18 Department of Family and Protective Services or in extended foster
- 19 care as provided by Subchapter G, Chapter 263, Family Code, to pay
- 20 any amount of the fine and costs. In lieu of the payment of fine and
- 21 costs, the justice or judge may require the defendant to perform
- 22 community service as provided by Article 45A.254, 45A.459, or
- 23 45A.460, as appropriate. (Code Crim. Proc., Arts. 45.041(b-2),
- 24 (b-3), (b-4), (b-5), (b-6).

25 Source Law

- (b-2) When imposing a fine and costs, if the justice or judge determines that the defendant is unable to immediately pay the fine and costs, the justice or judge shall allow the defendant to pay the fine and costs in specified portions at designated intervals.
- (b-3) A judge may allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:
- (1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or
- (2) paying the fine and costs in a manner described by Subsection (b).

26

27

28 29 30

31

32 33

34 35

36

37 38 39

40 41

(b-4) The election under Subsection (b-3) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(b-5) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to discharge a fine or costs under Subsection (b-3)(1).

(b-6) Notwithstanding Subsection (a-1) or any other provision of this chapter, when imposing a fine and costs, the justice or judge may not require a defendant who is under the conservatorship of the Department of Family and Protective Services or in extended foster care as provided by Subchapter G, Chapter 263, Family Code, to pay any amount of the fine and costs. In lieu of the payment of fine and costs, the justice or judge may require the defendant to perform community service as provided by Article 45.049, 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, or 45.0492, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011, as appropriate.

Revisor's Note

Article 45.041(b-6), Code of Criminal Procedure, allows a justice or judge to require a defendant to perform community service in lieu of the payment of fine and costs "as provided by Article 45.049." The relevant portion of Article 45.049 is revised as Article 45A.254, and the revised law is drafted accordingly.

Revised Law

- 40 Art. 45A.254. COMMUNITY SERVICE TO SATISFY FINES OR COSTS.
- 41 (a) A justice or judge may require a defendant who fails to pay a
- 42 previously assessed fine or cost, or who is determined by the court
- 43 to have insufficient resources or income to pay a fine or cost, to
- 44 discharge all or part of the fine or cost by performing community
- 45 service.

- 46 (b) An order requiring a defendant to perform community
- 47 service under this article must specify:
- 48 (1) the number of hours of community service the
- 49 defendant is required to perform; and

- 1 (2) the date by which the defendant must submit to the
- 2 court documentation verifying that the defendant completed the
- 3 community service.
- 4 (c) The justice or judge may order the defendant to perform
- 5 community service under this article:
- 6 (1) by attending:
- 7 (A) a work and job skills training program;
- 8 (B) a preparatory class for the high school
- 9 equivalency examination administered under Section 7.111,
- 10 Education Code;
- 11 (C) an alcohol or drug abuse program;
- 12 (D) a rehabilitation program;
- 13 (E) a counseling program, including a
- 14 self-improvement program;
- 15 (F) a mentoring program; or
- 16 (G) any similar activity; or
- 17 (2) for:
- 18 (A) a governmental entity;
- 19 (B) a nonprofit organization or another
- 20 organization that provides to the general public services that
- 21 enhance social welfare and the general well-being of the community,
- 22 as determined by the justice or judge; or
- (C) an educational institution.
- 24 (d) A justice or judge may not order a defendant to perform
- 25 more than 16 hours each week of community service under this article
- 26 unless the justice or judge determines that requiring the defendant
- 27 to perform additional hours does not impose an undue hardship on the
- 28 defendant or the defendant's dependents.
- (e) A defendant is considered to have discharged not less
- 30 than \$100 of fines or costs for each eight hours of community
- 31 service performed under this article.
- 32 (f) A defendant may discharge an obligation to perform
- 33 community service under this article by paying at any time the fine
- 34 and costs assessed.

- 1 (g) A community supervision and corrections department or a
- 2 court-related services office may provide the administrative and
- 3 other services necessary to supervise a defendant required to
- 4 perform community service under this article.
- 5 (h) An entity that accepts a defendant to perform community
- 6 service under this article must agree to:
- 7 (1) supervise, either on-site or remotely, the
- 8 defendant in the performance of the defendant's community service;
- 9 and

27

32

33

34

35

36

37

38

43

- 10 (2) report on the defendant's community service to the
- 11 justice or judge who ordered the service.
- 12 (i) A sheriff, employee of a sheriff's department, county
- 13 commissioner, county employee, county judge, justice of the peace,
- 14 municipal court judge, or officer or employee of a political
- 15 subdivision other than a county or an entity that accepts a
- 16 defendant to perform community service under this article is not
- 17 liable for damages arising from an act or failure to act in
- 18 connection with the community service if the act or failure to act:
- 19 (1) was performed pursuant to court order; and
- 20 (2) was not intentional, wilfully or wantonly
- 21 negligent, or performed with conscious indifference or reckless
- 22 disregard for the safety of others. (Code Crim. Proc., Arts.
- 23 45.049(a), (b), (c), (c-1), (d), (e), (f), (i).)

24 Source Law

- Art. 45.049. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS. (a) A justice or judge may require a defendant who fails to pay a previously assessed fine or costs, or who is determined by the court to have insufficient resources or income to pay a fine or costs, to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.
- (b) In the justice's or judge's order requiring a defendant to perform community service under this article, the justice or judge must specify:
- (1) the number of hours of community service the defendant is required to perform; and
- service the defendant is required to perform; and
 (2) the date by which the defendant must
 submit to the court documentation verifying the
 defendant's completion of the community service.
 - (c) The justice or judge may order the defendant

to perform community service under this article: (1)by attending: 3 (A) a work and job skills training program; 5 a preparatory class for the high 6 7 school equivalency examination administered under Section 7.111, Education Code; 8 (C) an alcohol or drug abuse program; 9 (D) a rehabilitation program; 10 (E) a counseling program, including a 11 self-improvement program; 12 (F) a mentoring program; or 13 (G) any similar activity; or 14 (2)for: 15 (A) a governmental entity; 16 (B) nonprofit organization a 17 another organization that provides services to the 18 general public that enhance social welfare and the general well-being of the community, as determined by 19 20 the justice or judge; or 21 an educational institution. (C) 22 (c-1)An entity that accepts a defendant under 23 this article to perform community service must agree to supervise, either on-site or remotely, the defendant in the performance of the defendant's community service and report on the defendant's 24 25 26 community service to the justice or judge who ordered 27 28 the service. (d) A justice or judge may not order a defendant to perform more than 16 hours per week of community 29 30 service under this article unless the justice or judge 31 determines that requiring the defendant to perform additional hours does not impose an undue hardship on 32 33 34 the defendant or the defendant's dependents. 35 A defendant is considered to have discharged (e) not less than \$100 of fines or costs for each eight 36 37 hours of community service performed under this 38 article. of a county 39 (f)sheriff, employee sheriff's employee, 40 department, county commissioner, county judge, justice of the peace, municipal court 41 or officer or employee of a political 42 subdivision other than a county or an entity that accepts a defendant under this article to perform community service is not liable for damages arising 43 44 45 46 from an act or failure to act in connection with 47 community service performed by a defendant under this 48 article if the act or failure to act: 49 (1)was performed pursuant to court order; 50 and intentional, 51 (2) was not wilfully negligent, or performed with conscious 52 wantonly 53 indifference or reckless disregard for the safety of 54 others. 55 (i) A community supervision and corrections department or a court-related services office may 56 provide the administrative and other services necessary for supervision of a defendant required to 57 58 perform community service under this article. 59 60 Revisor's Note 61 Articles 45.049(a), (b), (c), (c-1), (d), (e), (f), and (i), Code of Criminal Procedure, allow a 62 63 justice or judge to require a defendant to discharge

- fines or costs by performing community service "under
- this article." The relevant portion of Article 45.049
- is revised only in this article, and the revised law is
- 4 drafted accordingly.
- 5 Revised Law
- 6 Art. 45A.255. COMMUNITY SERVICE IN CERTAIN CASES INVOLVING
- 7 DEFERRED DISPOSITION. (a) This article applies only to a defendant
- 8 who is a resident of this state and who is charged with:
- 9 (1) a traffic offense; or
- 10 (2) an offense under Section 106.05, Alcoholic
- 11 Beverage Code.
- 12 (b) If under Article 45A.303(b)(10) the judge requires a
- 13 defendant described by Subsection (a) to perform community service
- 14 as a condition of the deferral, the defendant is entitled to elect
- 15 whether to perform the required service in the county in which:
- 16 (1) the court is located; or
- 17 (2) the defendant resides, but only if the applicable
- 18 entity agrees to:
- 19 (A) supervise, either on-site or remotely, the
- 20 defendant in the performance of the defendant's community service;
- 21 and
- (B) report to the court on the defendant's
- 23 community service.
- (c) If a defendant described by Subsection (a)(2) elects to
- 25 perform the required community service in the county in which the
- 26 defendant resides under Subsection (b)(2), the community service
- 27 must comply with Sections 106.071(d) and (e), Alcoholic Beverage
- 28 Code, except that if the educational programs or services described
- 29 by Section 106.071(e) are not available in the county of the
- 30 defendant's residence, the court may order community service that
- 31 the court considers appropriate for rehabilitative purposes. (Code
- 32 Crim. Proc., Arts. 45.049(g), (h).)
- 33 <u>Source Law</u>
- 34 (g) This subsection applies only to a defendant

who is charged with a traffic offense or an offense under Section 106.05, Alcoholic Beverage Code, and is of this Ιf resident state. under Article 45.051(b)(10), Code of Criminal Procedure, the judge requires the defendant to perform community service as a condition of the deferral, the defendant is entitled to elect whether to perform the required service in:

(1)the county in which the court located; or

(2) the county in which the defendant resides, but only if the applicable entity agrees to:

either (A) supervise, remotely, the defendant in the performance of the defendant's community service; and

(B) report the court on the to

defendant's community service.

This subsection applies only to a defendant charged with an offense under Section 106.05, Alcoholic Beverage Code, who, under Subsection (g), elects to perform the required community service in in which the defendant resides. county community service must comply with Sections 106.071(d) and (e), Alcoholic Beverage Code, except that if the educational programs or services described by Section 106.071(e) are not available in the county of the defendant's residence, the court may order community service that it considers appropriate rehabilitative purposes.

Revised Law

- 30 Art. 45A.256. FORFEITURE OF CASH BOND TO SATISFY FINES AND
- 31 COSTS; MOTION FOR NEW TRIAL. (a) A justice or judge may enter a
- 32 judgment of conviction and forfeit a cash bond posted by the
- defendant to satisfy the defendant's fine and 33 costs if the
- 34 defendant:

1

2 3

5 6

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26 27

28

- (1)35 has entered a written and signed plea of nolo
- contendere and a waiver of jury trial; and 36
- fails to appear according to the conditions of the 37
- 38 defendant's release.
- A justice or judge who enters a judgment of conviction 39
- and forfeiture of bond under Subsection (a) shall immediately 40
- 41 notify the defendant in writing, by regular mail addressed to the
- defendant at the defendant's last known address, that: 42
- 43 (1)a judgment of conviction and forfeiture of bond
- was entered against the defendant on a specified date and the 44
- 45 forfeiture satisfies the defendant's fine and costs in the case;
- 46 and
- 47 the defendant has a right to a new trial in the
- 48 case if the defendant applies for the new trial not later than the

- 1 10th day after the date of judgment and forfeiture.
- 2 (c) Notwithstanding Article 45A.201, the defendant may file
- 3 a motion for a new trial within the period provided by Subsection
- (b), and the court shall grant the motion if the motion is made 4
- within that period. On the new trial, the court shall permit the 5
- defendant to withdraw the previously entered plea of
- contendere and waiver of jury trial. (Code Crim. Proc., Art.
- 8 45.044.)

11

12

13 14 15

16 17

18

19 20 21

22

23 24

25

26 27

28 29

30

31 32

33

34

35

36

37

38 39

40

41

42

43

44

45

9 Source Law

Art. 45.044. FORFEITURE OF CASHBOND SATISFACTION OF FINE. (a) A justice or judge may enter a judgment of conviction and forfeit a cash bond posted by the defendant in satisfaction of the defendant's fine and cost if the defendant:

(1) has entered a written and signed plea

- of nolo contendere and a waiver of jury trial; and
- (2) fails to appear according to the terms of the defendant's release.
- (b) A justice or judge who enters a judgment of conviction and forfeiture under Subsection (a) of this article shall immediately notify the defendant in writing, by regular mail addressed to the defendant at the defendant's last known address, that:
- judgment (1)a of conviction forfeiture of bond was entered against the defendant on a date certain and the forfeiture satisfies the defendant's fine and costs in the case; and
- $\mbox{(2)}$ the defendant has a right to a new trial in the case if the defendant applies for the new trial not later than the 10th day after the date of judgment and forfeiture.
- (c) Notwithstanding Article 45.037 of code, the defendant may file a motion for a new trial within the period provided by Subsection (b) of this article, and the court shall grant the motion if the motion is made within that period. On the new trial, the court shall permit the defendant to withdraw the previously entered plea of nolo contendere and waiver of jury trial.

Revisor's Note

- (1)Article 45.044(a)(2), Code of Criminal Procedure, refers to the "terms" of a defendant's release. The revised law substitutes "conditions" for "terms" because, in this context, the terms synonymous and "conditions" is more commonly used.
- 46 (2) Article 45.044(b)(1), Code of Criminal 47 Procedure, refers to a judgment of conviction and forfeiture of bond entered on a "date certain." 48

- 1 revised law substitutes "specified date" for "date
- certain" for the reason stated in Revisor's Note (2) to
- 3 Article 45A.158.
- 4 Revised Law
- 5 Art. 45A.257. WAIVER OF PAYMENT OF FINES AND COSTS. (a) A
- 6 municipal court, regardless of whether the court is a court of
- 7 record, or a justice court may waive payment of all or part of a fine
- 8 imposed on a defendant if the court determines that:
- 9 (1) the defendant:
- 10 (A) is indigent or does not have sufficient
- 11 resources or income to pay all or part of the fine; or
- 12 (B) was, at the time the offense was committed, a
- 13 child as defined by Article 45A.453(a); and
- 14 (2) discharging the fine under Article 45A.254 or as
- 15 otherwise authorized by this chapter would impose an undue hardship
- 16 on the defendant.
- 17 (b) A municipal court, regardless of whether the court is a
- 18 court of record, or a justice court may waive payment of all or part
- 19 of the costs imposed on a defendant if the court determines that the
- 20 defendant:
- 21 (1) is indigent or does not have sufficient resources
- 22 or income to pay all or part of the costs; or
- 23 (2) was, at the time the offense was committed, a child
- 24 as defined by Article 45A.453(a).
- 25 (c) A defendant is presumed to be indigent or to not have
- 26 sufficient resources or income to pay all or part of the fines or
- 27 costs for purposes of Subsection (a) or (b) if the defendant:
- 28 (1) is in the conservatorship of the Department of
- 29 Family and Protective Services, or was in the conservatorship of
- 30 that department at the time of the offense; or
- 31 (2) is designated, or was designated at the time of the
- 32 offense, as a homeless child or youth or an unaccompanied youth, as
- 33 those terms are defined by 42 U.S.C. Section 11434a.
- 34 (d) A determination of undue hardship made under Subsection

(a)(2) is in the court's discretion. In making that determination, 1 2 the court may consider, as applicable, the defendant's: 3 (1)significant physical or mental impairment or 4 disability; pregnancy and childbirth; 5 (2) 6 (3) substantial family commitments 7 responsibilities, including child or dependent care; 8 (4)work responsibilities and hours; transportation limitations; 9 (5) 10 homelessness or housing insecurity; and (6) 11 (7)any other factor the court determines relevant. (Code Crim. Proc., Art. 45.0491.) 12 13 Source Law 14 Art. 45.0491. WAIVER OF PAYMENT OF FINES AND 15 COSTS FOR CERTAIN DEFENDANTS AND FOR CHILDREN. 16 A municipal court, regardless of whether the (a) court is a court of record, or a justice court may 17 waive payment of all or part of a fine imposed on a 18 19 defendant if the court determines that: 20 the defendant is indigent or does not (1)21 have sufficient resources or income to pay all or part the fine or was, at the time the offense was 22 23 committed, a child as defined by Article 45.058(h); 24 25 discharging the fine under (2) 45.049 or as otherwise authorized by this chapter 26 27 would impose an undue hardship on the defendant. 28 A defendant is presumed to be indigent or to not have sufficient resources or income to pay all or part of the fine or costs for purposes of Subsection 29 30 31 (a) or (d) if the defendant: 32 (1)is in the conservatorship of 33 Department of Family and Protective Services, or was 34 in the conservatorship of that department at the time 35 of the offense; or 36 is designated as a homeless child or (2) youth or an unaccompanied youth, as those terms are defined by 42 U.S.C. Section 11434a, or was so 37 defined by 42 U.S.C. 38 Section designated at the time of the offense.

(c) A determination of undue hardship made under 39 40 41 Subsection (a)(2) is in the court's discretion. Ιn 42 making that determination, the court may consider, as 43 applicable, the defendant's: (1) 44 significant physical mental oΥ impairment or disability; 45 pregnancy and childbirth; 46 (2) 47 (3) substantial family commitments responsibilities, including child or dependent care; 48 49 work responsibilities and hours; (4)50 (5)transportation limitations; 51 (6) homelessness or housing insecurity; 52 and 53 (7) any other factors the court determines 54 relevant.

or

- (d) A municipal court, regardless of whether the court is a court of record, or a justice court may waive payment of all or part of the costs imposed on a defendant if the court determines that the defendant:
- (1) is indigent or does not have sufficient resources or income to pay all or part of the costs; or
- (2) was, at the time the offense was committed, a child as defined by Article 45.058(h).

10 <u>Revisor's Note</u>

1

2

4 5

6 7

8

9

11

12

13

14

15

16

17

Article 45.0491(a), Code of Criminal Procedure, allows a municipal or justice court to waive payment of a fine if discharging the fine "under Article 45.049" would impose an undue hardship on the defendant. The relevant portion of Article 45.049 is revised as Article 45A.254, and the revised law is drafted accordingly.

18 Revised Law

- Art. 45A.258. RECONSIDERATION OF SATISFACTION OF FINES OR COSTS. (a) If the defendant notifies the justice or judge that the defendant has difficulty paying the fine and costs in compliance with the judgment, the justice or judge shall hold a hearing to determine whether the judgment imposes an undue hardship on the defendant.
- (b) For purposes of Subsection (a), a defendant may notify the justice or judge by:
- (1) voluntarily appearing and informing the justice or judge or the clerk of the court in the manner established by the justice or judge for that purpose;
- 30 (2) filing a motion with the justice or judge;
- 31 (3) mailing a letter to the justice or judge; or
- 32 (4) any other method established by the justice or 33 judge for that purpose.
- 34 (c) If the justice or judge determines at a hearing under 35 Subsection (a) that the judgment imposes an undue hardship on the 36 defendant, the justice or judge shall consider whether to allow the 37 defendant to satisfy the fine and costs through one or more methods
- 38 listed under Article 45A.252.

1 (d) The justice or judge may decline to hold a hearing under 2 Subsection (a) if the justice or judge: 3 (1) previously held a hearing under that subsection 4 with respect to the case and is able to determine without holding a hearing that the judgment does not impose an undue hardship on the 5 6 defendant; or 7 is able to determine without holding a hearing (2) 8 that: 9 (A) the judgment imposes an undue hardship on the defendant; and 10 (B) fine 11 the and costs should be satisfied through one or more methods listed under Article 45A.252. 12 13 (e) The justice or judge retains jurisdiction for the 14 purpose of making a determination under this article. (Code Crim. 15 Proc., Art. 45.0445.) 16 Source Law 17 Art. 45.0445. RECONSIDERATION OF SATISFACTION (a) If the defendant notifies the OF FINE OR COSTS. 18 justice or judge that the defendant has difficulty 19 20 paying the fine and costs in compliance with the 21 judgment, the justice or judge shall hold a hearing to hardship on the defendant.

(b) For now. 22 imposes an 23 For purposes of Subsection (a), a defendant 24 25 may notify the justice or judge by: 26 voluntarily appearing and informing (1)the justice or judge or the clerk of the court in the 27 manner established by the justice or judge for that 28 29 purpose; 30 (2) filing a motion with the justice or 31 judge; 32 (3) mailing a letter to the justice or 33 judge; or 34 (4)any other method established by the justice or judge for that purpose. 35 (c) If the justice or judge determines at the hearing under Subsection (a) that the judgment imposes 36 37 38 an undue hardship on the defendant, the justice or 39 judge shall consider whether to allow the defendant to satisfy the fine and costs through one or more methods 40 41 listed under Article 45.041(a-1). (d) The justice or judge may decline to hold a hearing under Subsection (a) if the justice or judge: 42 43 44 previously held a hearing under that (1)45 subsection with respect to the case and is able to determine without holding a hearing that the judgment 46 47 does not impose an undue hardship on the defendant; or 48 (2) is able to determine without holding a 49 hearing that:

50

51

the judgment imposes an undue

(A)

hardship on the defendant; and

- 1 (B) the fine and costs should be 2 satisfied through one or more methods listed under 3 Article 45.041(a-1).
- 4 (e) The justice or judge retains jurisdiction 5 for the purpose of making a determination under this 6 article.

7 Revised Law

- 8 Art. 45A.259. CAPIAS PRO FINE. (a) If the defendant is not
- 9 in custody when the judgment is imposed or if the defendant fails to
- 10 satisfy the judgment according to the terms of the judgment, the
- 11 court may order a capias pro fine, as defined by Article 43.015,
- 12 issued for the defendant's arrest.
- 13 (b) The capias pro fine ordered under Subsection (a) must:
- 14 (1) state the amount of the judgment and sentence; and
- 15 (2) command the appropriate peace officer to:
- 16 (A) bring the defendant before the court
- 17 immediately; or
- 18 (B) place the defendant in jail until the first
- 19 business day following the date of the defendant's arrest if the
- 20 defendant cannot be brought before the court immediately.
- 21 (c) If the court that issued the capias pro fine is
- 22 unavailable, the arresting officer may, in lieu of placing the
- 23 defendant in jail, take the defendant to:
- 24 (1) a justice court or county criminal law magistrate
- 25 court with jurisdiction over Class C misdemeanors that is located
- 26 in the same county, if the court that issued the capias pro fine was
- 27 a justice court; or
- 28 (2) a municipal court that is located in the same
- 29 municipality, if the court that issued the capias pro fine was a
- 30 municipal court.
- 31 (d) The court may not issue a capias pro fine for the
- 32 defendant's failure to satisfy the judgment according to the terms
- 33 of the judgment unless the court holds a hearing to determine
- 34 whether the judgment imposes an undue hardship on the defendant and
- 35 the defendant fails to:
- 36 (1) appear at the hearing; or
- 37 (2) comply with an order issued under Subsection (f)

- 1 as a result of the hearing.
- 2 (e) If the justice or judge determines at the hearing under
- 3 Subsection (d) that the judgment imposes an undue hardship on the
- 4 defendant, the justice or judge shall determine whether the fine
- 5 and costs should be satisfied through one or more methods listed
- 6 under Article 45A.252. The justice or judge retains jurisdiction
- 7 for the purpose of making a determination under this subsection.
- 8 (f) If the justice or judge determines at the hearing under
- 9 Subsection (d) that the judgment does not impose an undue hardship
- 10 on the defendant, the justice or judge shall order the defendant to
- 11 comply with the judgment not later than the 30th day after the date
- 12 that determination is made.
- 13 (g) The court shall recall a capias pro fine if, before the
- 14 capias pro fine is executed, the defendant:
- 15 (1) provides notice to the justice or judge under
- 16 Article 45A.258 and a hearing is set under that article; or
- 17 (2) voluntarily appears and makes a good faith effort
- 18 to resolve the capias pro fine.
- 19 (h) A capias pro fine may not be issued for a person
- 20 convicted for an offense committed before the person's 17th
- 21 birthday unless:
- 22 (1) the person is 17 years of age or older;
- 23 (2) the court finds that the issuance of the capias pro
- 24 fine is justified after considering:
- 25 (A) the sophistication and maturity of the
- 26 person;
- 27 (B) the criminal record and history of the
- 28 person; and
- (C) the reasonable likelihood of bringing about
- 30 the discharge of the judgment through the use of procedures and
- 31 services currently available to the court; and
- 32 (3) the court has proceeded under Article 45A.461 to
- 33 compel the person to discharge the judgment.
- 34 (i) This article does not limit the authority of a court to

- 1 order a child taken into custody under Article 45A.453 or 45A.455.
- 2 (Code Crim. Proc., Arts. 45.045(a), (a-1) as added Acts 84th Leg.,
- 3 R.S., Ch. 1171, (a-2), (a-3), (a-4), (a-5), (b), (c).)

Source Law

Art. 45.045. CAPIAS PRO FINE. (a) If the defendant is not in custody when the judgment is rendered or if the defendant fails to satisfy the judgment according to its terms, the court may order a capias pro fine, as defined by Article 43.015, issued for the defendant's arrest. The capias pro fine shall state the amount of the judgment and sentence, and command the appropriate peace officer to bring the defendant before the court immediately or place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately.

(a-1) [as added Acts 84th Leg., R.S., Ch. 1171] If the court that issued the capias pro fine is unavailable, the arresting officer may, in lieu of placing the defendant in jail, take the defendant to:

- (1) a justice of the peace court or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located in the same county, if the court that issued the capias pro fine was a justice of the peace court; or
- (2) a municipal court that is located in the same municipality, if the court that issued the capias pro fine was a municipal court.
- (a-2) The court may not issue a capias pro fine for the defendant's failure to satisfy the judgment according to its terms unless the court holds a hearing to determine whether the judgment imposes an undue hardship on the defendant and the defendant fails to:
 - (1) appear at the hearing; or
- (2) comply with an order issued under Subsection (a-4) as a result of the hearing.
- (a-3) If the justice or judge determines at the hearing under Subsection (a-2) that the judgment imposes an undue hardship on the defendant, the justice or judge shall determine whether the fine and costs should be satisfied through one or more methods listed under Article 45.041(a-1). The justice or judge retains jurisdiction for the purpose of making a determination under this subsection.
- (a-4) If the justice or judge determines at the hearing under Subsection (a-2) that the judgment does not impose an undue hardship on the defendant, the justice or judge shall order the defendant to comply with the judgment not later than the 30th day after the date the determination is made.
- (a-5) The court shall recall a capias pro fine if, before the capias pro fine is executed, the defendant:
- (1) provides notice to the justice or judge under Article 45.0445 and a hearing is set under that article; or
- (2) voluntarily appears and makes a good faith effort to resolve the capias pro fine.
- (b) A capias pro fine may not be issued for an individual convicted for an offense committed before the individual's 17th birthday unless:
- (1) the individual is 17 years of age or older;

- 1 (2)the court finds that the issuance of the capias pro fine is justified after considering: 2 3 the sophistication and maturity (A) of the individual; 5 (B) the criminal record and history 6 7 of the individual; and (C) the reasonable likelihood 8 bringing about the discharge of the judgment through 9 the use of procedures and services currently available 10 to the court; and 11 (3) the court has proceeded under Article 12
 - 45.050 to compel the individual to discharge the judgment.
 - (c) This article does not limit the authority of a court to order a child taken into custody under Article 45.058 or 45.059.

Revisor's Note

- (1)45.045(a-1), Code Article of Criminal Procedure, as added by Chapter 1182 (S.B. 1139), Acts of the 84th Legislature, Regular Session, 2015, and Article 45.045(a-1), Code of Criminal Procedure, as added by Chapter 1171 (S.B. 873), Acts of the 84th Legislature, Regular Session, 2015, state that if the court issuing a capias pro fine is unavailable, an arresting officer may take the defendant to certain locations in lieu of placing the defendant in jail. The revised law omits Article 45.045(a-1) as added by Chapter 1182 because it duplicates in substance Article 45.045(a-1), as added by Chapter 1171, revised as Article 45A.259(c) of this chapter. The omitted law reads:
 - (a-1) [as added Acts 84th Leg., R.S., Ch. 1182] If the court that issued the capias pro fine is unavailable, the arresting officer may take the defendant to one of the following locations in lieu of placing the defendant in jail:
 - (1) if the court that issued the capias pro fine was a justice of the peace, to a justice of the peace or county criminal law magistrate court with jurisdiction over Class C misdemeanors that is located within the same county; or
 - (2) if the court that issued the capias pro fine was a municipal court, to a municipal court judge that is located within the same city.
- (2) Article 45.045(a-1)(1), Code of Criminal Procedure, as added by Chapter 1171 (S.B. 873), Acts of

13

14 15

16

17

18

19

20

21

2.2

2.3

24

25

26

27

28

29

30

31

32

33 34

35

36

37

38 39 40

41

42

43 44

45

46

47

48

- the 84th Legislature, Regular Session, 2015, refers to 1 a "justice of the peace court." Throughout this 2 3 chapter, the revised law omits "of the peace" for
- consistency in terminology because "justice court" is more commonly used in the Code of Criminal Procedure. 5
- 45.045(c), 6 (3) Article Code of Criminal Procedure, states that that article does not limit 7 8 certain aspects of the court's authority under Article 9 45.058 of that code. The relevant portion of Article 45.058 is revised as Article 45A.453, and the revised 10 law is drafted accordingly.

12 Revised Law

4

11

- Art. 45A.260. APPEARANCE BY TELEPHONE OR VIDEOCONFERENCE. 13
- 14 If the justice or judge determines that requiring a defendant to
- appear before the justice or judge in person for a hearing under 15
- Article 45A.258 or 45A.259 would impose an undue hardship on the 16
- 17 defendant, the justice or judge may allow the defendant to appear by
- telephone or videoconference. (Code Crim. Proc., Art. 45.0201.) 18

19 Source Law

APPEARANCE 20 ВΥ Art. 45.0201. TELEPHONE VIDEOCONFERENCE. If the justice or judge determines 21 22 requiring a defendant to appear before justice or judge in person for a hearing under Article 45.0445 or 45.045 would impose an undue hardship on the defendant, the justice or judge may allow the 23 24 25 defendant to appear by telephone or videoconference. 26

27 Revised Law

- Art. 45A.261. COMMITMENT. (a) If a judgment and sentence 28
- have been entered against a defendant and the defendant defaults in 29
- the discharge of the judgment, the judge may order the defendant 30
- confined in jail until discharged by law if the judge at a hearing 31
- makes a written determination that: 32
- 33 (1)the defendant is not indigent and has failed to
- 34 make a good faith effort to discharge the fines or costs; or
- 35 (2) the defendant is indigent and:
- 36 has failed to make a good faith effort to
- 37 discharge the fines or costs under Article 45A.254; and

- 1 (B) could have discharged the fines or costs
- 2 under Article 45A.254 without experiencing any undue hardship.
- 3 (b) A certified copy of the judgment, sentence, and order is
- 4 sufficient to authorize confinement under Subsection (a).
- 5 (c) For purposes of a hearing described by Subsection (a), a
- 6 defendant may be brought before the court in person or by means of
- 7 an electronic broadcast system through which an image of the
- 8 defendant is presented to the court. For purposes of this
- 9 subsection, "electronic broadcast system" means a two-way
- 10 electronic communication of image and sound between the defendant
- 11 and the court and includes secure Internet videoconferencing.
- 12 (d) For purposes of a hearing described by Subsection (a),
- 13 if the court that issued the capias pro fine is unavailable, the
- 14 following may conduct the hearing:
- 15 (1) a justice court or county criminal law magistrate
- 16 court with jurisdiction over Class C misdemeanors that is located
- 17 in the same county as the issuing court, if the issuing court was a
- 18 justice court; or

27

28 29

30 31 32

33

34

35

36

37

38

39 40

41

42

43 44

- 19 (2) a municipal court that is located in the same
- 20 municipality as the issuing court, if the issuing court was a
- 21 municipal court. (Code Crim. Proc., Arts. 45.046(a), (b), (c), (d)
- 22 as added Acts 84th Leg., R.S., Ch. 1171.)

23 Source Law

- Art. 45.046. COMMITMENT. (a) When a judgment and sentence have been entered against a defendant and the defendant defaults in the discharge of the judgment, the judge may order the defendant confined in jail until discharged by law if the judge at a hearing makes a written determination that:
- (1) the defendant is not indigent and has failed to make a good faith effort to discharge the fine or costs; or
 - (2) the defendant is indigent and:
- (A) has failed to make a good faith effort to discharge the fine or costs under Article 45.049; and
- (B) could have discharged the fine or costs under Article 45.049 without experiencing any undue hardship.
- (b) A certified copy of the judgment, sentence, and order is sufficient to authorize such confinement.
- (c) For purposes of a hearing described by Subsection (a), a defendant may be brought before the court in person or by means of an electronic broadcast

system through which an image of the defendant is presented to the court. For purposes of this subsection, "electronic broadcast system" means a two-way electronic communication of image and sound between the defendant and the court and includes secure Internet videoconferencing.

(d) [as added Acts 84th Leg., R.S., Ch. 1171] For purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, the following judicial officers may conduct the hearing:

(1) a justice of the peace or county criminal law magistrate with jurisdiction over Class C misdemeanors who is located in the same county as the issuing court, if the issuing court was a justice of the peace court; or

(2) a municipal court judge who is located in the same municipality as the issuing court, if the issuing court was a municipal court.

Revisor's Note

- 45.046(a)(2), Code (1)Article of Criminal Procedure, allows a judge to order a defendant confined in jail if the judge makes determinations regarding the discharge of fines or costs "under Article 45.049." The relevant portion of Article 45.049 is revised as Article 45A.254, and the revised law is drafted accordingly.
- (2) Article 45.046(d), Code of Criminal Procedure, as added by Chapter 1182 (S.B. 1139), Acts of the 84th Legislature, Regular Session, 2015, and Article 45.046(d), Code of Criminal Procedure, as added by Chapter 1171 (S.B. 873), Acts of the 84th Legislature, Regular Session, 2015, state that if the court issuing a capias pro fine is unavailable, certain other judicial officers may conduct hearing. The revised law omits Article 45.046(d) as it added by Chapter 1182 because in substance duplicates Article 45.046(d) as added by Chapter 1171, revised as Article 45A.261(d) of this chapter. The omitted law reads:
 - (d) [as added Acts 84th Leg., R.S., Ch. 1182] For purposes of a hearing described by Subsection (a), if the court that issued the capias pro fine is unavailable, the following judicial officers may conduct the hearing:

1

2

5 6 7

8

9 10

11

12

13 14 15

16 17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41 42 43

44

45

(1) if the court that issued the capias pro fine was a justice of the peace, a justice of the peace or a county criminal law magistrate with jurisdiction over Class C misdemeanors that is located within the same county as the issuing court; or

(2) if the court that issued the capias pro fine was a municipal court, a municipal court judge that is located

same

city

as

the

issuing

the

municipal court.

1

2

3

8

9

10

11

26

45.046(d), Code Criminal 12 (3) Article of Procedure, as added by Chapter 1171 (S.B. 873), Acts of 13 the 84th Legislature, Regular Session, 2015, refers to 14 15 "judicial officers" who may conduct hearings including a "justice of the peace," a "county criminal law 16 magistrate," and a "municipal court judge." It is not 17 necessary to refer to specific judicial officers 18 19 because the authority to issue a capias pro fine rests 20 with the applicable court. The revised law is drafted 21 accordingly.

22 <u>Revised Law</u>

within

- Art. 45A.262. DISCHARGED FROM JAIL. (a) A defendant placed in jail due to failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant:
 - (1) is indigent and cannot pay the fine and costs; or
- (2) has remained in jail for a cumulative period that is sufficient to satisfy the fine and costs, at the rate of not less than \$150 for each separate period served, as specified by the convicting court in the judgment in the case.
- 31 (b) A convicting court may specify a period that is not less 32 than eight hours or more than 24 hours as the period for which a 33 defendant who fails to pay the fine and costs in the case must 34 remain in jail to satisfy \$150 of the fine and costs. (Code Crim. 35 Proc., Art. 45.048.)

36 Source Law

Art. 45.048. DISCHARGED FROM JAIL. (a) A defendant placed in jail on account of failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant:

(1) is too poor to pay the fine and costs;

or

- (2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$150 for each period served, as specified by the convicting court in the judgment in the case.
- (b) A convicting court may specify a period that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fine and costs in the case must remain in jail to satisfy \$150 of the fine and costs.

Revisor's Note

Article 45.048(a)(1), Code of Criminal Procedure, states that a defendant may be discharged on habeas corpus by a showing that the defendant is "too poor to pay" the fine and costs. For consistency in terminology, the revised law substitutes "indigent and cannot pay" for the quoted language because, in this context, the phrases synonymous are and "indigent" is more commonly used in the Code of Criminal Procedure.

21 Revised Law

Art. 45A.263. CIVIL COLLECTION OF FINES AND COSTS AFTER
JUDGMENT. If, after a judgment and sentence is entered, the
defendant defaults in payment of a fine, the justice or judge may
order the fine and costs collected by execution against the
defendant's property in the same manner as a judgment in a civil
suit. (Code Crim. Proc., Art. 45.047.)

Source Law

Art. 45.047. CIVIL COLLECTION OF FINES AFTER
JUDGMENT. If after a judgment and sentence is entered
the defendant defaults in payment of a fine, the
justice or judge may order the fine and costs collected
by execution against the defendant's property in the
same manner as a judgment in a civil suit.

Revised Law

- Art. 45A.264. COLLECTION OF FINES AND COSTS BY MUNICIPALITY. (a) The governing body of each municipality shall by ordinance prescribe rules as proper to enforce the collection of fines imposed by a municipal court.
- 40 (b) In addition to any other method of enforcement, the 41 municipality may enforce the collection of fines by:

1

2 3 4

5

6

7

8

9 10

11

12

13

14

15

16

17

18

19

2.0

28

1 (1)execution against the property of the defendant; 2 or confinement of the defendant. 3 (2) 4 (c) The governing body of a municipality may adopt rules concerning the practice and procedure in the municipal court that 5 6 the governing body considers proper. 7 After notice, the governing body of a municipality may 8 by ordinance prescribe the collection of a fine not to exceed \$25 9 for an offense under Section 38.10(e), Penal Code, or Section 543.009, Transportation Code. Money collected from the fine shall 10 be paid into the municipal treasury for the use and benefit of the 11 municipality. 12 13 Costs may not be imposed or collected in criminal cases 14 in municipal court by municipal ordinance. (Code Crim. Proc., Art. 45.203.) 15 16 Source Law 17 Art. 45.203. COLLECTION OF FINES AND COSTS. The governing body of each municipality shall by ordinance prescribe rules, not inconsistent with any law of this state, as may be proper to enforce the collection of fines imposed by a municipal court. In 18 19 20 21 22 to any other method of enforcement, addition 23 municipality may enforce the collection of fines by: 24 (1)execution against the property of the 25 defendant; or 26 (2) imprisonment of the defendant. (b) The governing body of a municipality may adopt such rules and regulations, not inconsistent 27 28 with any law of this state, concerning the practice and procedure in the municipal court as the governing body 29 30 31 may consider proper. 32 The governing body of each municipality may 33 ordinance the collection, after prescribe by notice, of a fine not to exceed \$25 for an offense 34 35 Section 38.10(e), Penal Code, or Section 543.009, Transportation Code. 36 Money collected from the fine shall be paid into the municipal treasury for the use and benefit of the municipality. 37 38 39 (d) Costs may not be imposed or collected in municipal court by 40 criminal cases in municipal 41 ordinance. 42 Revisor's Note (1)Article 45.203(a), Code 43 of Criminal

revised

law

44

45

46

"imprisonment" to conform to the terminology used in

Procedure, refers to a defendant's "imprisonment." The

"confinement"

for

substitutes

- the Penal Code and the Code of Criminal Procedure.
 - (2) Articles 45.203(a) and (b), Code of Criminal Procedure, provide for a municipality to adopt rules "not inconsistent with any law of this state." The revised law omits the quoted language as unnecessary because as a general principle of law, a municipality may not adopt a rule inconsistent with any law of this state.
 - (3) Article 45.203(b), Code of Criminal Procedure, refers to "rules and regulations" a municipality may adopt. The revised law omits "and regulations" because Section 311.005(5), Government Code (Code Construction Act), defines "rule" to include "regulation." The Code Construction Act is applicable to the revised law and any other provision of the Code of Criminal Procedure enacted under 43, Article III, Section Texas Constitution (authorizing the continuing statutory revision program), in the same manner as to an entire code enacted under the continuing statutory revision program, except as otherwise expressly provided by the Code of Criminal Procedure. See Section 6.02(a), (H.B. Chapter 1058 2931), Acts of the Legislature, Regular Session, 2017.
 - (4) Article 45.203(c), Code of Criminal Procedure, refers to the collection of certain fines after "due" notice. The revised law omits "due" as unnecessary because the specific notice requirements applicable to the payment of those fines provide sufficient authority for compliance with those requirements.

SUBCHAPTER G. DEFERRED DISPOSITION

33 Revised Law

34 Art. 45A.301. APPLICABILITY. This subchapter does not

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

- 1 apply to:
- 2 (1) an offense to which Section 542.404,
- 3 Transportation Code, applies; or
- 4 (2) a violation of a state law or local ordinance
- 5 relating to motor vehicle control, other than a parking violation,
- 6 committed by a person who:
- 7 (A) holds a commercial driver's license; or
- 8 (B) held a commercial driver's license when the
- 9 offense was committed. (Code Crim. Proc., Art. 45.051(f).)

10 Source Law

- 11 (f) This article does not apply to:
- 12 (1) an offense to which Section 542.404,

Transportation Code, applies; or

- 14 (2) a violation of a state law or local 15 ordinance relating to motor vehicle control, other 16 than a parking violation, committed by a person who:
- 17 (A) holds a commercial driver's
- 18 license; or
- 19 (B) held a commercial driver's
- license when the offense was committed.

21 Revised Law

- 22 Art. 45A.302. DEFERRED DISPOSITION. (a) On a plea of
- 23 guilty or nolo contendere by a defendant or on a finding of guilt in
- 24 a misdemeanor case punishable by fine only and payment of all court
- 25 costs, a judge may defer further proceedings for a period not to
- 26 exceed 180 days without entering an adjudication of guilt.
- 27 (b) In issuing the order of deferral, the judge may impose a
- 28 fine on the defendant in an amount not to exceed the amount of the
- 29 fine that could be imposed on the defendant as punishment for the
- 30 offense.
- 31 (c) The fine described by Subsection (b) may be collected at
- 32 any time before the date on which the period of deferral ends. A
- 33 judge who orders the collection of the fine must require that the
- 34 amount of the fine be credited toward the payment of the amount of
- 35 any fine imposed by the judge as punishment for the offense.
- 36 (d) The judge may elect not to impose the fine for good cause
- 37 shown by the defendant.
- 38 (e) An order of deferral under this article terminates any

1 liability under a bond given for the charge. (Code Crim. Proc.,

2 Art. 45.051(a).)

4

5

6 7

8

10 11 12

13 14

15 16 17

18

19

20 21

22 23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

3 Source Law

Art. 45.051. SUSPENSION OF SENTENCE AND DEFERRAL OF FINAL DISPOSITION. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only and payment all court costs, the judge may defer further proceedings without entering an adjudication of guilt and place the defendant on probation for a period not to exceed 180 days. In issuing the order of deferral, the judge may impose a fine on the defendant in an amount not to exceed the amount of the fine that could be imposed on the defendant as punishment for offense. The fine may be collected at any time before the date on which the period of probation ends. The judge may elect not to impose the fine for good cause If the judge orders the shown by the defendant. collection of a fine under this subsection, the judge shall require that the amount of the fine be credited toward the payment of the amount of any fine imposed by the judge as punishment for the offense. An order of under this subsection terminates liability under a bond given for the charge.

Revisor's Note

Article 45.051(a), Code of Criminal Procedure, allows a judge under certain circumstances to defer further proceedings without entering an adjudication guilt "and place the defendant on probation." 45.051(a) also refers to Article а period of "probation." The revised law omits the phrase "and place the defendant on probation" as unnecessary because, in this context, placing a defendant on probation is included in the concept of deferring further proceedings without entering an adjudication of guilt. For consistency in terminology, throughout this chapter, the revised law substitutes "deferral" for "probation" because, in this context, the terms are synonymous and "deferral" is the more commonly used term in the Code of Criminal Procedure.

Revised Law

Art. 45A.303. DEFERRED DISPOSITION REQUIREMENTS. (a)

43 Notwithstanding any other law, as an alternative to requiring a

44 defendant charged with one or more offenses to pay all fines and

- 1 court costs as required by Article 45A.302, the judge may:
- 2 (1) allow the defendant to enter into an agreement to
- 3 pay those fines and costs in installments during the defendant's
- 4 period of deferral;
- 5 (2) require an eligible defendant to discharge all or
- 6 part of those fines and costs by performing community service or
- 7 attending a tutoring program under Article 45A.254 or 45A.460;
- 8 (3) waive all or part of those fines and costs under
- 9 Article 45A.257; or
- 10 (4) take any combination of actions authorized by
- 11 Subdivision (1), (2), or (3).
- 12 (b) During the deferral period, the judge may require the
- 13 defendant to:
- 14 (1) secure payment of the fine by posting a bond in
- 15 the amount of the fine assessed as punishment for the offense;
- 16 (2) pay restitution to the victim of the offense in an
- 17 amount not to exceed the amount of the fine assessed as punishment
- 18 for the offense;
- 19 (3) submit to professional counseling;
- 20 (4) submit to diagnostic testing for alcohol or a
- 21 controlled substance or drug;
- 22 (5) submit to a psychosocial assessment;
- 23 (6) successfully complete an alcohol or drug abuse
- 24 treatment or education program, such as:
- 25 (A) a drug education program that is designed to
- 26 educate persons on the dangers of drug abuse in accordance with
- 27 Section 521.374(a)(1), Transportation Code, and that is regulated
- 28 by the Texas Department of Licensing and Regulation under Chapter
- 29 171, Government Code; or
- 30 (B) an alcohol awareness program described by
- 31 Section 106.115, Alcoholic Beverage Code, that is regulated by the
- 32 Texas Department of Licensing and Regulation under Chapter 171,
- 33 Government Code;
- 34 (7) pay the costs of any diagnostic testing,

- 1 psychosocial assessment, or treatment or education program
- 2 participation as reimbursement fees:
- 3 (A) directly; or
- 4 (B) through the court as court costs;
- 5 (8) complete a driving safety course approved under
- 6 Chapter 1001, Education Code, or another course as directed by the
- 7 judge;
- 8 (9) present to the court satisfactory evidence that
- 9 the defendant has complied with each requirement imposed by the
- 10 judge under this subchapter; and
- 11 (10) comply with any other reasonable condition.
- 12 (c) A judge who requires a defendant to successfully
- 13 complete an alcohol awareness program or drug education program as
- 14 described by Subsection (b)(6) shall require the defendant to pay a
- 15 reimbursement fee for the cost of the program, unless the judge
- 16 determines that the defendant is indigent and unable to pay the
- 17 cost.

24

25

26

27 28

29

30

35

36 37

38 39

40 41

42

43

44

45

46

- 18 (d) The judge may allow the defendant to pay the fee
- 19 described by Subsection (c) in installments during the deferral
- 20 period. (Code Crim. Proc., Arts. 45.051(a-1), (b), (g).)

21 Source Law

- (a-1) Notwithstanding any other provision of law, as an alternative to requiring a defendant charged with one or more offenses to make payment of all fines and court costs as required by Subsection (a), the judge may:
- (1) allow the defendant to enter into an agreement for payment of those fines and costs in installments during the defendant's period of probation;
- (2) require an eligible defendant to discharge all or part of those fines and costs by performing community service or attending a tutoring program under Article 45.049 or under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011;

 (3) waive all or part of those fines and
- (3) waive all or part of those fines and costs under Article 45.0491; or
- (4) take any combination of actions authorized by Subdivision (1), (2), or (3).
- (b) During the deferral period, the judge may require the defendant to:
- (1) post a bond in the amount of the fine assessed as punishment for the offense to secure payment of the fine;
 - (2) pay restitution to the victim of the

offense in an amount not to exceed the fine assessed as punishment for the offense; 3 submit to professional counseling; (3) (4)submit diagnostic testing to 5 6 7 alcohol or a controlled substance or drug; (5) submit to a psychosocial assessment; (6) successfully complete an alcohol or 8 drug abuse treatment or education program, such as: (A) a drug education program that is designed to educate persons on the dangers of drug abuse in accordance with Section 521.374(a)(1), 9 10 11 Transportation Code, and that is regulated by the Texas Department of Licensing and Regulation under 12 13 14 Chapter 171, Government Code; or 15 (B) an alcohol awareness program 16 described by Section 106.115, Alcoholic Beverage Code, 17 that is regulated by the Texas Department of Licensing and Regulation under Chapter 171, Government Code; 18 (7) pay as reimbursement fees the costs of any diagnostic testing, psychosocial assessment, or participation in a treatment or education program 19 20 21 22 either directly or through the court as court costs; 23 (8) complete driving safety а 24 1001, under approved Chapter Education Code, another course as directed by the judge;
(9) present to the court 25 26 court satisfactory 27 evidence that the defendant has complied with each 28 requirement imposed by the judge under this article; 29 and 30 comply with any other reasonable (10)condition. 31 32 a judge requires a defendant Ιf (g) 33 Subsection (b) to successfully complete an alcohol 34 education program awareness program Οľ drug described by Subdivision (6) of 35 that subsection. judge determines that the defendant is 36 unless the 37 indigent and unable to pay the cost, the judge shall

deferral period.

Revisor's Note

require the defendant to pay a reimbursement fee for the cost of the program. The judge may allow the defendant to pay the fee in installments during the

course

Article 45.051(a-1)(2), of Code Criminal Procedure, allows a judge to require an eligible defendant to discharge fines and costs by performing community service "under Article 45.049." The relevant portion of Article 45.049 is revised as Article 45A.254, and the revised law is drafted accordingly.

Revised Law

- 50 Art. 45A.304. DEFERRED DISPOSITION REQUIREMENTS: MOVING 51 VIOLATION COMMITTED BY YOUNG DEFENDANT. (a) This article applies 52 to a defendant who:
- is younger than 25 years of age; and 53
- committed a traffic offense classified as a moving 54 (2)

42

43

44

45

46

47

48

- 1 violation.
- 2 (b) Notwithstanding Article 45A.303(b)(8), during a
- 3 deferral period ordered under this subchapter, the judge shall
- 4 require that a defendant described by Subsection (a):
- 5 (1) complete a driving safety course approved under
- 6 Chapter 1001, Education Code; and
- 7 (2) if the defendant holds a provisional license, be
- 8 examined by the Department of Public Safety as required by Section
- 9 521.161(b)(2), Transportation Code.
- 10 (c) A defendant remains subject to the examination required
- 11 by Subsection (b)(2) regardless of whether the defendant was
- 12 examined previously.

22 23

24

25

26

27 28

29

30

31

32

33

34

35

36

37

38

39

40

41

42 43

44

45

- 13 (d) A defendant examined as required by Subsection (b)(2)
- 14 must pay a \$10 reimbursement fee for the examination.
- 15 (e) The reimbursement fee collected under Subsection (d)
- 16 must be deposited to the credit of a special account in the general
- 17 revenue fund and may be used only by the Department of Public Safety
- 18 for the administration of Chapter 521, Transportation Code. (Code
- 19 Crim. Proc., Arts. 45.051(b-1), (b-2), (b-3).)

20 <u>Source Law</u>

- (b-1) If the defendant is younger than 25 years of age and the offense committed by the defendant is a traffic offense classified as a moving violation:
 - (1) Subsection (b)(8) does not apply;
- (2) during the deferral period, the judge shall require the defendant to complete a driving safety course approved under Chapter 1001, Education Code; and
- (3) if the defendant holds a provisional license, during the deferral period the judge shall require that the defendant be examined by the Department of Public Safety as required by Section 521.161(b)(2), Transportation Code; a defendant is not exempt from the examination regardless of whether the defendant was examined previously.
- (b-2) A person examined as required by Subsection (b-1)(3) must pay a \$10 reimbursement fee for the examination.
- (b-3) The reimbursement fee collected under Subsection (b-2) must be deposited to the credit of a special account in the general revenue fund and may be used only by the Department of Public Safety for the administration of Chapter 521, Transportation Code.

Revisor's Note

(1) Article 45.051(b-1)(2), Code of Criminal

Procedure, refers to the deferral period for certain 1 defendants. For the convenience of the reader, the 2 revised law adds "ordered under this subchapter" 3 4 because the provisions relating to a judge's order of a deferral period for those defendants are revised in 5 6 this subchapter.

> (2) Article 45.051(b-2), Code of Procedure, refers to a "person" who must pay a reimbursement fee for a required examination. consistency in terminology within this article, the revised law substitutes "defendant" for "person" because, in this context, the terms are synonymous and "defendant" is the more commonly used term in this article.

Revised Law

- Art. 45A.305. DISMISSAL OF COMPLAINT ON COMPLIANCE WITH 16 17 JUDICIAL REQUIREMENTS. (a) On determining that the defendant has complied with the requirements imposed by the judge under this 18 19 subchapter, the judge shall dismiss the complaint.
- 20 If a complaint is dismissed under Subsection (a), there is not a final conviction and the complaint may not be used against 21 22 the person for any purpose.
- The docket must clearly note that the judge dismissed 23 24 the complaint and that there is not a final conviction.
- Records relating to a complaint dismissed as provided by 25 Subsection (a) may be expunged under Subchapter A, B, or C, Chapter 26 55A. (Code Crim. Proc., Arts. 45.051(c), (e).) 27

28 Source Law

- (c) On determining that the defendant has complied with the requirements imposed by the judge 30 dismiss the under this article, the judge shall complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.
- 35 (e) Records relating to a complaint dismissed as 36 provided by this article may be expunged under Article 37 55.01. If a complaint is dismissed under this article, there is not a final conviction and the complaint may 38

7

8

9

10

11

12

13

14

15

29

31

32 33

Τ	not be used against the person for any purpose.							
2	Revisor's Note							
3	(1) Article 45.051(e), Code of Criminal							
4	Procedure, refers to a complaint dismissed "as							
5	provided by this article" and "under this article."							
6	The relevant portion of Article 45.051 is revised as							
7	Subsection (a) of this article, and the revised law is							
8	drafted accordingly.							
9	(2) Article 45.051(e), Code of Criminal							
10	Procedure, provides that certain dismissed complaints							
11	may be expunged under Article 55.01 of that code. The							
12	relevant portion of Article 55.01 is revised in							
13	Subchapters A, B, and C, Chapter 55A, Code of Criminal							
14	Procedure, and the revised law is drafted accordingly.							
15	Revised Law							
16	Art. 45A.306. SHOW CAUSE HEARING ON FAILURE TO COMPLY WITH							
17	JUDICIAL REQUIREMENTS. If the defendant fails to present within							
18	the deferral period satisfactory evidence of compliance with th							
19	requirements imposed by the judge under this subchapter, the cour							
20	shall:							
21	(1) notify the defendant in writing, mailed to the							
22	address on file with the court or appearing on the notice to appear,							
23	of that failure; and							
24	(2) require the defendant to appear at the time and							
25	place stated in the notice to show cause why the order of deferral							
26	should not be revoked. (Code Crim. Proc., Art. 45.051(c-1).)							
27	Source Law							
28 29 30 31 32 33 34 35 36 37	<pre>(c-1) If the defendant fails to present within the deferral period satisfactory evidence of compliance with the requirements imposed by the judge under this article, the court shall:</pre>							
38	Revised Law							

Art. 45A.307. JUDICIAL ACTIONS ON SHOW CAUSE HEARING. (a)

- 1 On the defendant's showing of good cause for failure to present
- 2 satisfactory evidence of compliance with the requirements imposed
- 3 by the judge under this subchapter, the court may allow an
- 4 additional period during which the defendant may present evidence
- 5 of the defendant's compliance with the requirements.
- 6 (b) Except as provided by Subsection (c), if on the date of a
- 7 show cause hearing under Article 45A.306 or, if applicable, by the
- 8 conclusion of an additional period provided under Subsection (a),
- 9 the defendant does not present satisfactory evidence that the
- 10 defendant complied with the requirements imposed by the judge under
- 11 this subchapter, the judge may impose the fine assessed or a lesser
- 12 fine. The imposition of the fine or lesser fine constitutes a final
- 13 conviction of the defendant.
- 14 (c) If the defendant was required to complete a driving
- 15 safety course or an examination under Article 45A.304(b) and on the
- 16 date of a show cause hearing under Article 45A.306 or, if
- 17 applicable, by the conclusion of an additional period provided
- 18 under Subsection (a), the defendant does not present satisfactory
- 19 evidence that the defendant completed that course or examination,
- 20 the judge shall impose the fine assessed. The imposition of the
- 21 fine constitutes a final conviction of the defendant. (Code Crim.
- 22 Proc., Arts. 45.051(c-2), (d) (part), (d-1).)

23 Source Law

- (c-2) On the defendant's showing of good cause for failure to present satisfactory evidence of compliance with the requirements imposed by the judge under this article, the court may allow an additional period during which the defendant may present evidence of the defendant's compliance with the requirements.
- (d) If on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present satisfactory evidence that the defendant complied with the requirements imposed, the judge may impose the fine assessed or impose a lesser fine. The imposition of the fine or lesser fine constitutes a final conviction of the defendant. . .
- (d-1) If the defendant was required to complete a driving safety course or an examination under Subsection (b-1) and on the date of a show cause hearing under Subsection (c-1) or, if applicable, by the conclusion of an additional period provided under Subsection (c-2) the defendant does not present

24

25

26

27

28

29 30

31

32

38

39

40

41

42 43

satisfactory evidence that the defendant completed that course or examination, the judge shall impose the fine assessed. The imposition of the fine constitutes a final conviction of the defendant.

Revisor's Note

- (1) Article 45.051(d), Code of Criminal Procedure, provides an exception to the application of that subsection for a defendant who is required to complete a driving safety course or an examination. The revised law omits that provision as unnecessary because Article 45.051(d-1), revised as Subsection (c) of this article, already sufficiently establishes that exception with respect to those defendants. The omitted law reads:
 - (d) . . . This subsection does not apply to a defendant required under Subsection (b-1) to complete a driving safety course approved under Chapter 1001, Education Code, or an examination under Section 521.161(b)(2), Transportation Code.
- 22 (2) Articles 45.051(d) and (d-1), Code of 23 Criminal Procedure, include a reference to a driving 24 safety course and an examination "under Subsection (b-1)." The relevant portions of Article 45.051(b-1) 25 are revised as Article 45A.304(b), and the revised law 26 27 is drafted accordingly.
- 28 SUBCHAPTER H. DRIVING SAFETY OR MOTORCYCLE OPERATOR COURSE
- 29 DISMISSAL
- 30 Revised Law
- 31 Art. 45A.351. APPLICABILITY. (a) Except as provided by
- 32 Subsections (b) and (c), this subchapter applies only to an alleged
- 33 offense that:

6

7

8

9

10

11

12

13

14

15

16

17 18

19

20

- 34 (1) is within the jurisdiction of a justice or
- 35 municipal court;
- 36 (2) involves the operation of a motor vehicle; and
- 37 (3) is defined by:
- 38 (A) Section 472.022, Transportation Code;
- 39 (B) Subtitle C, Title 7, Transportation Code; or

1	(C) Section 729.001(a)(3), Transportation Code.						
2	(b) If the defendant is younger than 25 years of age, this						
3	subchapter applies to any alleged offense that:						
4	(1) is within the jurisdiction of a justice or						
5	municipal court;						
6	(2) involves the operation of a motor vehicle; and						
7	(3) is classified as a moving violation.						
8	(c) This subchapter does not apply to an offense committed						
9	by a person who:						
10	(1) holds a commercial driver's license; or						
11	(2) held a commercial driver's license when the						
12	offense was committed. (Code Crim. Proc., Arts. 45.0511(a), (a-1),						
13	(s); New.)						
14	Source Law						
15 16 17 18 19 20 21 22 23 24 25 26 27 29 31 33 34 35 37	Art. 45.0511. DRIVING SAFETY COURSE OR MOTORCYCLE OPERATOR COURSE DISMISSAL PROCEDURES. (a) Except as provided by Subsection (a-1), this article applies only to an alleged offense that: (1) is within the jurisdiction of a justice court or a municipal court; (2) involves the operation of a motor vehicle; and (3) is defined by: (A) Section 472.022, Transportation Code; (B) Subtitle C, Title 7, Transportation Code; (C) Section 729.001(a)(3), Transportation Code. (a-1) If the defendant is younger than 25 years of age, this article applies to any alleged offense that: (1) is within the jurisdiction of a justice court or a municipal court; (2) involves the operation of a motor vehicle; and (3) is classified as a moving violation.						
38 39 40 41 42 43	 (s) This article does not apply to an offense committed by a person who: (1) holds a commercial driver's license; or (2) held a commercial driver's license when the offense was committed. 						
44	Revisor's Note						
45	Article 45.0511(a), Code of Criminal Procedure,						
46	states that "[e]xcept as provided by Subsection (a-1),						
47	this article applies" only to specific offenses.						

1 Article 45.0511(a-1) is revised in this article as

2 Subsection (b). For the convenience of the reader and

3 because it is clear from the context that Article

45.0511(s), revised in this article as Subsection (c),

is also an exception to Subsection (a), the revised law

adds a cross-reference to Subsection (c). The revised

7 law is drafted accordingly.

8 Revised Law

9 Art. 45A.352. DRIVING SAFETY OR MOTORCYCLE OPERATOR

10 TRAINING COURSE COMPLETION. (a) The judge shall require a

11 defendant to successfully complete a driving safety course approved

12 by the Texas Department of Licensing and Regulation or a course

13 under the motorcycle operator training and safety program approved

14 by the designated state agency under Chapter 662, Transportation

15 Code, if:

4

5

- 16 (1) the defendant elects driving safety course or
- 17 motorcycle operator training course dismissal under this
- 18 subchapter;
- 19 (2) the defendant:
- 20 (A) has a Texas driver's license or permit; or
- (B) is a member, or the spouse or dependent child
- 22 of a member, of the United States military forces serving on active
- 23 duty;
- 24 (3) either:
- 25 (A) the defendant has not completed an approved
- 26 driving safety course or motorcycle operator training course, as
- 27 appropriate, within the 12-month period preceding the date of the
- 28 offense; or
- 29 (B) the defendant:
- 30 (i) does not have a Texas driver's license
- 31 or permit;
- 32 (ii) is a member, or the spouse or dependent
- 33 child of a member, of the United States military forces serving on
- 34 active duty; and

- 1 (iii) has not completed a driving safety
- 2 course or motorcycle operator training course, as appropriate, in
- 3 another state within the 12-month period preceding the date of the
- 4 offense;
- 5 (4) on or before the answer date on the notice to
- 6 appear, the defendant enters, under Article 45A.151(a), a plea of
- 7 nolo contendere or guilty in person or in writing and:
- 8 (A) presents in person or by counsel to the court
- 9 a request to take a course; or
- 10 (B) sends to the court by certified mail, return
- 11 receipt requested, postmarked on or before the answer date on the
- 12 notice to appear, a written request to take a course;
- 13 (5) the defendant is charged with an offense to which
- 14 this subchapter applies, other than speeding at a speed of:
- 15 (A) 95 miles per hour or more; or
- 16 (B) 25 miles per hour or more over the posted
- 17 speed limit; and
- 18 (6) the defendant provides evidence of financial
- 19 responsibility as required by Chapter 601, Transportation Code.
- 20 (b) The court may dismiss only one charge for each
- 21 completion of a course described by Subsection (a).
- (c) Notwithstanding Subsections (a)(3) and (4), before the
- 23 final disposition of the case, the court may grant a request to take
- 24 a driving safety course or a motorcycle operator training course
- 25 under this subchapter.
- 26 (d) A request to take a driving safety course or motorcycle
- 27 operator training course made at or before the time and at the place
- 28 at which a defendant is required to appear in court is an appearance
- 29 in compliance with the defendant's promise to appear. (Code Crim.
- 30 Proc., Arts. 45.0511(b), (d), (e), (m).)
- 31 Source Law
- 32 (b) The judge shall require the defendant to
- 33 successfully complete a driving safety course approved
- by the Texas Department of Licensing and Regulation or a course under the motorcycle operator training and
- 36 safety program approved by the designated state agency

1 2 3 4	under Chapter 662, Transportation Code, if: (1) the defendant elects driving safety course or motorcycle operator training course dismissal under this article;
5 6 7 8	(2) the defendant: (A) has not completed an approved driving safety course or motorcycle operator training course, as appropriate, within the 12 months preceding
9 10	the date of the offense; or (B) does not have a valid Texas
11 12	driver's license or permit, is a member, or the spouse or dependent child of a member, of the United States
13 14	military forces serving on active duty, and has not completed a driving safety course or motorcycle
15 16 17	operator training course, as appropriate, in another state within the 12 months preceding the date of the offense;
18 19	(3) the defendant enters a plea under Article 45.021 in person or in writing of no contest or
20 21	guilty on or before the answer date on the notice to appear and:
22 23	(A) presents in person or by counsel to the court a request to take a course; or
24 25 26 27	(B) sends to the court by certified mail, return receipt requested, postmarked on or before the answer date on the notice to appear, a written request to take a course;
2 <i>1</i> 28 29	(4) the defendant: (A) has a valid Texas driver's
30 31	license or permit; or (B) is a member, or the spouse or
32 33	dependent child of a member, of the United States military forces serving on active duty;
34 35	(5) the defendant is charged with an offense to which this article applies, other than
36 37	speeding at a speed of: (A) 95 miles per hour or more; or
38 39	(B) 25 miles per hour or more over the posted speed limit; and
40 41 42	(6) the defendant provides evidence of financial responsibility as required by Chapter 601, Transportation Code.
43 44 45 46 47	(d) Notwithstanding Subsections (b)(2) and (3), before the final disposition of the case, the court may grant a request to take a driving safety course or a motorcycle operator training course under this article.
48 49	(e) A request to take a driving safety course or motorcycle operator training course made at or before
50 51 52	the time and at the place at which a defendant is required to appear in court is an appearance in compliance with the defendant's promise to appear.
53 54	(m) The court may dismiss only one charge for each completion of a course.
55	Revisor's Note
56	Articles $45.0511(b)(2)(B)$ and $(b)(4)(A)$, Code of
57	Criminal Procedure, refer to a "valid Texas driver's
58	license or permit." The revised law omits "valid" as
59	unnecessary because a purported license or permit is

not a license or permit if it is not valid.

1 Revised Law 2 Art. 45A.353. CERTAIN DEFENDANTS ENTITLED TOCOMPLETE 3 DRIVING SAFETY OR MOTORCYCLE OPERATOR TRAINING COURSE. The court shall advise a defendant charged with a misdemeanor under Section 4 472.022, Transportation Code, Subtitle C, Title 7, Transportation 5 6 Code, or Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right under this 7 subchapter to successfully complete a driving safety course or, if 8 9 offense was committed while operating a motorcycle, a The right to complete a motorcycle operator training course. 10 course does not apply to a defendant charged with: 11 a violation of Section 545.066, 550.022, 12 13 550.023, Transportation Code; a serious traffic violation; or 14 (2)15 offense 542.404, (3) an to which Section Transportation Code, applies. (Code Crim. Proc., Art. 45.0511(p).) 16 17 Source Law 18 (p) The court shall advise a defendant charged 19 misdemeanor under Section 472.022, 729.001(a)(3), 20 Transportation Subtitle Code, 21 Code, Section Transportation or 22 Transportation Code, committed while operating a motor vehicle of the defendant's right under this article to 23 24 successfully complete a driving safety course or, if 25 committed the was offense while operating 26 motorcycle, a motorcycle operator training course. 27 The right to complete a course does not apply to a 28 defendant charged with: 29 (1)violation of Section 545.066, 30 550.022, or 550.023, Transportation Code; 31 (2) a serious traffic violation; or (3) 32 an offense to which Section 542.404, Transportation Code, applies. 33 34 Revised Law Art. 45A.354. CONTENT OF NOTICE TO APPEAR. (a) A notice to 35 appear issued for an offense to which this subchapter applies must 36 37 inform a defendant charged with an offense under Section 472.022, Transportation Code, an offense under Subtitle C, Title 7, 38 39 Transportation Code, or an offense under Section 729.001(a)(3), 40 Transportation Code, committed while operating a motor vehicle of

41

the defendant's right to complete a driving safety course or, if the

- 1 offense was committed while operating a motorcycle, of the
- 2 defendant's right to complete a motorcycle operator training
- 3 course. The notice required by this subsection must read
- 4 substantially as follows:
- 5 "You may be able to require that this charge be dismissed by
- 6 successfully completing a driving safety course or a motorcycle
- 7 operator training course. You will lose that right if, on or before
- 8 your appearance date, you do not provide the court with notice of
- 9 your request to take the course."
- 10 (b) If the notice required by Subsection (a) is not provided
- 11 to the defendant charged with the offense, the defendant may
- 12 continue to exercise the defendant's right to take a driving safety
- 13 course or a motorcycle operator training course until the notice
- 14 required by Subsection (a) is provided to the defendant or there is
- 15 a final disposition of the case. (Code Crim. Proc., Arts.
- 16 45.0511(q), (r).)

19

20

21 22

23 24

25

26

27

28 29

30

31

32

33 34

35

36

37

38

39 40

41

42

43

17 Source Law

A notice to appear issued for an offense to which this article applies must inform a defendant an 472.022, charged with offense under Section Transportation Code, an offense under Subtitle C, Title 7, Transportation Code, or an offense under Section 729.001(a)(3), Transportation Code, committed while operating a motor vehicle of the defendant's right to complete a driving safety course or, if the offense was committed while operating a motorcycle, of defendant's right to complete the a motorcycle operator training course. The notice required by this subsection must read substantially as follows:

"You may be able to require that this charge be dismissed by successfully completing a driving safety course or a motorcycle operator training course. You will lose that right if, on or before your appearance date, you do not provide the court with notice of your request to take the course."

(r) If the notice required by Subsection (q) is not provided to the defendant charged with the offense, the defendant may continue to exercise the defendant's right to take a driving safety course or a motorcycle operator training course until the notice required by Subsection (q) is provided to the defendant or there is a final disposition of the case.

Revised Law

Art. 45A.355. EXTENSION FOR GOOD CAUSE. On a defendant's showing of good cause for failure to provide evidence to the court, the court may allow an additional period during which the defendant

1 may present:

13

14

15

- a uniform certificate of course completion as 2
- 3 evidence that the defendant successfully completed the driving
- 4 safety course; or
- (2) a verification of course completion as evidence 5
- 6 that the defendant successfully completed the motorcycle operator
- 7 training course. (Code Crim. Proc., Art. 45.0511(k).)

8 Source Law

- On a defendant's showing of good cause for 9 (k) failure to furnish evidence to the court, the court may 10 allow an extension of time during which the defendant 11 12 may present:
 - (1)uniform certificate of а completion as evidence that the defendant successfully
- completed the driving safety course; or
 (2) a verification of course completion as 16 evidence that the defendant successfully completed the 17 18 motorcycle operator training course.

19 Revised Law

- Art. 45A.356. JUDICIAL ACTIONS FOLLOWING PLEA; SHOW CAUSE 20
- 21 HEARING. (a) The court shall enter judgment on a defendant's plea
- of nolo contendere or guilty at the time the plea is made, defer 22
- 23 imposition of the judgment, and allow the defendant a 90-day period
- 24 to successfully complete the approved driving safety course or
- motorcycle operator training course and present to the court: 25
- 26 (1) a uniform certificate of completion of the driving
- 27 safety course or a verification of completion of the motorcycle
- operator training course; 28
- unless the judge proceeds under Article 45A.359, 29
- 30 the defendant's driving record as maintained by the Department of
- 31 Public Safety, if any, showing that the defendant has not completed
- an approved driving safety course or motorcycle operator training 32
- course, as applicable, within the 12-month period preceding the 33
- date of the offense; 34
- an affidavit stating that the defendant: 35
- 36 (A) was not taking a driving safety course or
- 37 motorcycle operator training course, as applicable, under this
- subchapter on the date the request to take the course was made; and 38

- 1 (B) has not completed, within the 12-month period
- 2 preceding the date of the offense, a course described by Paragraph
- 3 (A) that is not shown on the defendant's driving record; and
- 4 (4) if the defendant does not have a Texas driver's
- 5 license or permit and is a member, or the spouse or dependent child
- 6 of a member, of the United States military forces serving on active
- 7 duty, an affidavit stating that the defendant:
- 8 (A) was not taking a driving safety course or
- 9 motorcycle operator training course, as applicable, in another
- 10 state on the date the request to take the course was made; and
- 11 (B) has not completed a course described by
- 12 Paragraph (A) within the 12-month period preceding the date of the
- 13 offense.
- 14 (b) If the judge proceeds under Article 45A.359 and the copy
- 15 of the defendant's driving record provided to the judge under
- 16 Subsection (c) of that article shows that the defendant has not
- 17 completed an approved driving safety course or motorcycle operator
- 18 training course, as applicable, within the 12-month period
- 19 preceding the date of the offense, the judge shall allow the
- 20 defendant to complete the appropriate course as provided by this
- 21 article.
- (c) If a defendant satisfies the requirements of Subsection
- 23 (a), the court shall:
- 24 (1) remove the judgment and dismiss the charge;
- 25 (2) report the fact that the defendant successfully
- 26 completed a driving safety course or a motorcycle operator training
- 27 course and the date of completion to the Department of Public Safety
- 28 for inclusion in the defendant's driving record; and
- 29 (3) state in the report under Subdivision (2) whether
- 30 the course was taken under this subchapter to provide information
- 31 necessary to determine eligibility to take a subsequent course
- 32 under Article 45A.352(a).
- 33 (d) An order of deferral under Subsection (a) terminates any
- 34 liability under a bond given for the charge.

- 1 (e) If a defendant requesting a course under this subchapter
- 2 fails to satisfy the requirements of Subsection (a), the court
- 3 shall:
- 4 (1) notify the defendant in writing, mailed to the
- 5 address on file with the court or appearing on the notice to appear,
- 6 of that failure; and
- 7 (2) require the defendant to appear at the time and
- 8 place stated in the notice to show cause why the evidence was not
- 9 timely submitted to the court.
- 10 (f) If the defendant fails to appear at the time and place
- 11 stated in the notice under Subsection (e), or appears at the time
- 12 and place stated in the notice but does not show good cause for the
- 13 defendant's failure to satisfy the requirements of Subsection (a),
- 14 the court shall enter an adjudication of guilt and impose sentence.
- 15 (Code Crim. Proc., Arts. 45.0511(c), (c-1) (part), (i), (j), (l),
- 16 (t).)

18

19

20

21 22

23 24

25 26 27

28

29

30

31 32

33 34

35

36 37 38

39 40

41

42

43

44

45

46

Source Law

- (c) The court shall enter judgment on the defendant's plea of no contest or guilty at the time the plea is made, defer imposition of the judgment, and allow the defendant 90 days to successfully complete the approved driving safety course or motorcycle operator training course and present to the court:
- (1) a uniform certificate of completion of the driving safety course or a verification of completion of the motorcycle operator training course;
- (2) unless the judge proceeds under Subsection (c-1), the defendant's driving record as maintained by the Department of Public Safety, if any, showing that the defendant had not completed an approved driving safety course or motorcycle operator training course, as applicable, within the 12 months preceding the date of the offense;
- (3) an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as applicable, under this article on the date the request to take the course was made and had not completed such a course that is not shown on the defendant's driving record within the 12 months preceding the date of the offense; and
- (4) if the defendant does not have a valid Texas driver's license or permit and is a member, or the spouse or dependent child of a member, of the United States military forces serving on active duty, an affidavit stating that the defendant was not taking a driving safety course or motorcycle operator training course, as appropriate, in another state on the date the request to take the course was made and had not completed such a course within the 12 months

1 preceding the date of the offense. (c-1) . . . If the copy of the defendant's 2 driving record provided to the judge under this subsection shows that the defendant has not completed 3 5 an approved driving safety course or motorcycle operator training course, as appropriate, within the 6 7 12 months preceding the date of the offense, the judge shall allow the defendant to complete the appropriate 8 9 course as provided by this article. . 10 If a defendant requesting a course under 11 this article fails to comply with Subsection (c), the 12 court shall: (1) notify the defendant in writing, mailed to the address on file with the court or appearing on the notice to appear, of that failure; and 13 14 15 require the defendant to appear at the 16 (2) 17 time and place stated in the notice to show cause why the evidence was not timely submitted to the court.

(j) If the defendant fails to appear at the time 18 19 20 and place stated in the notice under Subsection (i), or 21 appears at the time and place stated in the notice but does not show good cause for the defendant's failure to comply with Subsection (c), the court shall enter an 22 23 24 adjudication of guilt and impose sentence. 25 (1)When a defendant complies with Subsection 26 (c), the court shall: 27 (1)remove the judgment and dismiss the 28 charge; 29 report the fact that the defendant (2) 30 successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; and 31 32 33 34 (3) state in that report whether 35 course was taken under this article to provide 36 information necessary to determine eligibility to take 37 a subsequent course under Subsection (b). 38 An order of deferral under Subsection (c) 39 terminates any liability under a bond given for the 40 charge. Revisor's Note 41 Article 45.0511(c)(4), Code 42 (1)43 Procedure, refers to a "valid Texas driver's license or 44 permit." The revised law omits "valid" for the reason 45 stated in the revisor's note to Article 45A.352. 46

Article 45.0511(c-1), Code of Criminal (2) Procedure, requires a judge to allow a defendant to complete the appropriate driving safety course motorcycle operator training course if the defendant's driving record shows the defendant has not completed the course within a certain period and if, as an alternative to receiving the defendant's driving

of

Criminal

47

48

49

50

51

- record from the defendant, the judge requested the Texas Department of Public Safety to provide the driving record. Because the provisions of Subsection (c-1) relating to the retrieval of the defendant's driving record are revised in Article 45A.359, the revised law adds a cross-reference to that provision for clarity and the convenience of the reader.
 - (3) Article 45.0511(c-1), Code of Criminal Procedure, refers to the copy of the defendant's driving record provided to the judge under "this subsection." The relevant portion of Subsection (c-1) is revised in Article 45A.359(c), and the revised law is drafted accordingly.
 - (4) Article 45.0511(c-1), Code of Criminal Procedure, requires a judge to allow a defendant to complete the appropriate driving safety course or motorcycle operator training course "as provided by this article." The relevant portion of Article 45.0511 is revised only in this article, and the revised law is drafted accordingly.
 - (5) Article 45.0511(1)(2), Code of Criminal Procedure, refers to a "person's" driving record. For consistency in terminology in this article, the revised law substitutes "defendant's" for "person's" because, in this context, the terms are synonymous and "defendant" is the more commonly used term in this article.

28 <u>Revised Law</u>

- 29 Art. 45A.357. EFFECT OF DISMISSAL OR COURSE COMPLETION.
- 30 (a) A charge that is dismissed under this subchapter may not be 31 part of a person's driving record or used for any purpose.
- 32 (b) An insurer delivering or issuing for delivery a motor 33 vehicle insurance policy in this state may not cancel or increase 34 the premium charged an insured under the policy because the

- 1 insured:
- 2 (1) completed a driving safety course or a motorcycle
- 3 operator training course; or
- 4 (2) had a charge dismissed under this subchapter.
- 5 (Code Crim. Proc., Arts. 45.0511(n), (o).)

6 Source Law

- 7 (n) A charge that is dismissed under this 8 article may not be part of a person's driving record or 9 used for any purpose.
- 10 delivering or issuing (0) An insurer delivery a motor vehicle insurance policy in this 11 12 state may not cancel or increase the premium charged an insured under the policy because the insured completed 13 14 a driving safety course or a motorcycle operator training course, or had a charge dismissed under this 15 16 article.

17 Revised Law

- Art. 45A.358. ADDITIONAL FINES AND FEES RELATING TO COURSE
- 19 REQUEST. (a) In addition to court costs and fees authorized or
- 20 imposed by a law of this state and applicable to the offense, the
- 21 court may:
- 22 (1) require a defendant requesting a driving safety
- 23 course or motorcycle operator training course under Article
- 24 45A.352(a) to pay a reimbursement fee in an amount of not more than
- 25 \$10 to cover the cost of administering this subchapter; or
- 26 (2) require a defendant requesting a driving safety
- 27 course or motorcycle operator training course under Article
- 28 45A.352(c) to pay a fine set by the court in an amount not to exceed
- 29 the maximum amount of the fine for the offense committed by the
- 30 defendant.
- 31 (b) A defendant who requests but does not take a driving
- 32 safety course or motorcycle operator training course is not
- 33 entitled to a refund of the reimbursement fee or fine assessed under
- 34 Subsection (a).
- 35 (c) Money collected by a municipal court shall be deposited
- 36 in the municipal treasury. Money collected by another court shall
- 37 be deposited in the county treasury of the county in which the court
- 38 is located. (Code Crim. Proc., Arts. 45.0511(f), (g), (h).)

1 Source Law costs 2 In addition to (f)court and fees authorized or imposed by a law of this state and applicable to the offense, the court may: 3 4 5 (1)a defendant requesting require 6 course under Subsection (b) to pay a reimbursement fee to cover the cost of administering this article in an 7 amount of not more than \$10; or 8 9 (2) require defendant requesting а course under Subsection (d) to pay a fine set by the 10 11 court at an amount not to exceed the maximum amount of 12 the fine for the offense committed by the defendant. 13 A defendant who requests but does not take a course is not entitled to a refund of the reimbursement 14 15 fee or fine assessed under Subsection (f). 16 Money collected by a municipal court shall (h) 17 deposited in the municipal treasury. collected by another court shall be deposited in the 18 county treasury of the county in which the court is 19 20 located. 21 Revised Law DRIVING RECORD RETRIEVAL AND RELATED FEE. 22 Art. 45A.359. In this article, "state electronic Internet portal" has the 23 (a) meaning assigned by Section 2054.003, Government Code. 24 25 (b) As an alternative to receiving the defendant's driving 26 record under Article 45A.356(a)(2), the judge, at the time the 27 defendant requests a driving safety course or motorcycle operator training course dismissal under this subchapter, may: 28 29 require the defendant to pay a reimbursement fee (1)30 in an amount equal to the sum of the amount of: 31 (A) the fee established by Section 521.048, Transportation Code; and 32 33 the state electronic Internet portal fee; and (B) 34 (2) the state electronic Internet portal to use request that the Department of Public Safety provide the judge with 35 36 a copy of the defendant's driving record showing the information described by Section 521.047(b), Transportation Code. 37 38 As soon as practicable, the Department of Public Safety shall use the state electronic Internet portal to provide the judge 39 with the requested copy of the defendant's driving record. 40

(d)

41

42

43

addition to any other fee required under this subchapter.

The reimbursement fee authorized by Subsection (b) is in

(e) The custodian of a municipal or county treasury who

- 1 receives reimbursement fees collected under this article shall keep
- 2 a record of the fees and, without deduction or proration, forward
- 3 the fees to the comptroller with and in the manner required for
- 4 other fees and costs received in connection with criminal cases.
- 5 (f) The comptroller shall credit fees collected under
- 6 Subsection (e) to the Department of Public Safety. (Code Crim.
- 7 Proc., Art. 45.0511(c-1) (part).)

11

12

13

14

15

16 17 18

19

20

21 22 23

24

25 26 27

28

29

30

31

32

33

38

39

40

41

42

43

44

45

46

47

48

49

8 <u>Source Law</u>

(c-1) In this subsection, "state electronic Internet portal" has the meaning assigned by Section 2054.003, Government Code. As an alternative under receiving defendant's driving the record judge, Subsection (c)(2), the the time at a driving defendant requests safety course motorcycle operator training course dismissal under this article, may require the defendant to pay a reimbursement fee in an amount equal to the sum of the amount of the fee established by Section 521.048, Transportation Code, and the state electronic Internet portal fee and, using the state electronic Internet portal, may request the Texas Department of Public Safety to provide the judge with a copy of the defendant's driving record that shows the information described by Section 521.047(b), Transportation Code. As soon as practicable and using the state electronic Internet portal, the Texas Department of Public Safety shall provide the judge with the requested copy of the defendant's driving record. The reimbursement fee authorized by this subsection is in addition to any other fee required under this article. custodian of a municipal or county t treasury who this receives reimbursement fees collected under subsection shall keep a record of the fees and, without deduction or proration, forward the fees to the comptroller, with and in the manner required for other fees and costs received in connection with criminal The comptroller shall credit fees received cases. under this subsection to the Texas Department of Public Safety.

Revisor's Note

- (1) Article 45.0511(c-1), Code of Criminal Procedure, refers to the reimbursement fee authorized by "this subsection." The relevant portion of Subsection (c-1) is revised in this article as Subsection (b), and the revised law is drafted accordingly.
- (2) Article 45.0511(c-1), Code of Criminal Procedure, refers to fees collected under "this subsection." The relevant portions of Subsection

- 1 (c-1) are revised in this article, and the revised law
- 2 is drafted accordingly.
- 3 (3) Article 45.0511(c-1), Code of Criminal
- 4 Procedure, requires the comptroller to credit fees
- 5 collected under "this subsection." The relevant
- 6 portion of Subsection (c-1) is revised in this article
- 7 as Subsection (e), and the revised law is drafted
- 8 accordingly.
- 9 SUBCHAPTER I. OTHER DISMISSALS
- 10 Revised Law
- 11 Art. 45A.401. DISMISSAL OF MISDEMEANOR CHARGE ON COMPLETION
- 12 OF TEEN COURT PROGRAM. (a) This article applies only to a
- 13 defendant who is:
- 14 (1) younger than 18 years of age; or
- 15 (2) enrolled full time in an accredited secondary
- 16 school in a program leading toward a high school diploma.
- 17 (b) A justice or municipal court may defer proceedings
- 18 against a defendant described by Subsection (a) for a period not to
- 19 exceed 180 days if the defendant:
- 20 (1) is charged with an offense that the court has
- 21 jurisdiction of under Article 4.11 or 4.14;
- 22 (2) with the defendant's parent, guardian, or managing
- 23 conservator present, pleads nolo contendere or guilty to the
- 24 offense in open court;
- 25 (3) presents to the court an oral or written request to
- 26 attend a teen court program or is recommended to attend the program
- 27 by a school employee under Section 37.146, Education Code; and
- 28 (4) has not successfully completed a teen court
- 29 program in the year preceding the date that the alleged offense
- 30 occurred.
- 31 (c) The court must approve the teen court program.
- 32 (d) A defendant for whom proceedings are deferred under
- 33 Subsection (b) must complete the teen court program not later than
- 34 the earlier of:

- 1 (1) the 90th day after the date the teen court hearing 2 to determine punishment is held; or
- 3 (2) the last day of the deferral period.
- 4 (e) The justice or municipal court shall dismiss the charge 5 at the time the defendant presents satisfactory evidence that the 6 defendant has successfully completed the teen court program.
- (f) A charge dismissed under this article may not be part of the defendant's criminal record or driving record or used for any purpose, except that if the charge was for a traffic offense, the court shall report to the Department of Public Safety the fact that the defendant successfully completed the teen court program and the date of completion for inclusion in the defendant's driving record.
- 13 (g) The justice or municipal court may require a defendant
 14 who requests a teen court program to pay a reimbursement fee in an
 15 amount not to exceed \$10 that is set by the court to cover the costs
 16 of administering this article. Reimbursement fees collected by a
 17 municipal court shall be deposited in the municipal treasury, and
 18 reimbursement fees collected by a justice court shall be deposited
 19 in the county treasury of the county in which the court is located.
- (h) A defendant who requests a teen court program and fails to complete the program is not entitled to a refund of the reimbursement fee under Subsection (g).
- (i) A court may transfer a case in which proceedings have been deferred under this article to a court in another county if that court consents to the transfer and has jurisdiction over the case.
- (j) In addition to the reimbursement fee authorized by Subsection (g), the court may require a defendant who requests a teen court program to pay a \$10 reimbursement fee to cover the program's cost for performing duties under this article. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursal of the fee.
- 34 (k) A defendant who pays a fee under Subsection (j) is not

- 1 entitled to a refund of the fee, regardless of whether the defendant
- 2 successfully completes the teen court program.
- 3 (1) A justice or municipal court may exempt a defendant for
- 4 whom proceedings are deferred under this article from the
- 5 requirement to pay a court cost or fee imposed by another statute.
- 6 (m) Notwithstanding Subsection (g) or (j), a justice or
- 7 municipal court that is located in the Texas-Louisiana border
- 8 region, as defined by Section 2056.002, Government Code, may charge
- 9 a reimbursement fee of \$20 under those subsections. (Code Crim.
- 10 Proc., Art. 45.052.)

13

14

15 16 17

18 19

20

21

22

23

24

25

26

27

28

29 30

31

32

33

34

35

36 37

38 39 40

41

42 43

44

49

50

51 52 53

54 55

56

11 Source Law

Art. 45.052. DISMISSAL OF MISDEMEANOR CHARGE ON COMPLETION OF TEEN COURT PROGRAM. (a) A justice or municipal court may defer proceedings against a defendant who is under the age of 18 or enrolled full time in an accredited secondary school in a program leading toward a high school diploma for not more than 180 days if the defendant:

(1) is charged with an offense that the court has jurisdiction of under Article 4.11 or 4.14;

(2) pleads nolo contendere or guilty to the offense in open court with the defendant's parent, guardian, or managing conservator present;

(3) presents to the court an oral or written request to attend a teen court program or is recommended to attend the program by a school employee under Section 37.146, Education Code; and

(4) has not successfully completed a teen court program in the year preceding the date that the alleged offense occurred.

- (b) The teen court program must be approved by the court.
- (c) defendant for whom proceedings deferred under Subsection (a) shall complete the teen court program not later than the 90th day after the date the teen court hearing to determine punishment is held or the last day of the deferral period, whichever date is earlier. The justice or municipal court shall dismiss the charge at the time the defendant presents satisfactory evidence that the defendant successfully completed the teen court program.
- (d) A charge dismissed under this article may not be part of the defendant's criminal record or driving record or used for any purpose. However, if the charge was for a traffic offense, the court shall report to the Department of Public Safety that the defendant successfully completed the teen court program and the date of completion for inclusion in the defendant's driving record.
- (e) The justice or municipal court may require a person who requests a teen court program to pay a reimbursement fee not to exceed \$10 that is set by the court to cover the costs of administering this article. Reimbursement fees collected by a municipal court shall be deposited in the municipal treasury. Reimbursement fees collected by a justice court shall

be deposited in the county treasury of the county in which the court is located. A person who requests a teen court program and fails to complete the program is not entitled to a refund of the fee.

- (f) A court may transfer a case in which proceedings have been deferred under this section to a court in another county if the court to which the case is transferred consents. A case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.
- addition (g) In t.o the reimbursement authorized by Subsection (e), the court may require a child who requests a teen court program to pay a \$10 reimbursement fee to cover the cost to the teen court for performing its duties under this article. The court shall pay the fee to the teen court program, and the teen court program must account to the court for the receipt and disbursal of the fee. A child who pays a fee under this subsection is not entitled to a refund regardless of the fee, of whether the child successfully completes the teen court program.
- (h) A justice or municipal court may exempt a defendant for whom proceedings are deferred under this article from the requirement to pay a court cost or fee that is imposed by another statute.
- (i) Notwithstanding Subsection (e) or (g), a justice or municipal court that is located in the Texas-Louisiana border region, as defined by Section 2056.002, Government Code, may charge a reimbursement fee of \$20 under those subsections.

Revisor's Note

- (1) Article 45.052(e), Code of Criminal Procedure, refers to a "person" who requests a teen court program. Article 45.052(g), Code of Criminal Procedure, refers to a "child" who requests a teen court program or pays a fee related to the program. For consistency in terminology within this article, the revised law substitutes "defendant" for "person" and "child" because, in this context, the terms are synonymous and "defendant" is the more commonly used term in this article.
- Article 45.052(f), (2) Code of Criminal Procedure, refers to a case in which proceedings have been deferred under "this section." language is a drafting error because Chapter 45, Code of Criminal Procedure, is organized in articles rather than sections. The revised law is drafted accordingly.
- (3) Article 45.052(q), Code of Criminal

1

2

3

4

5

6 7

8

9

10

11

12

13

14

15 16 17

18 19

20

21

22

23

24

25

26

27

28 29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

46

47

48

Procedure, refers to a child who pays a fee under "this subsection." The relevant portion of Subsection (g) is revised in this article as Subsection (j), and the revised law is drafted accordingly.

(4) Article 45.052(i), Code of Criminal provides that "[n]otwithstanding Procedure, Subsection (e) or (g)," certain courts may charge a reimbursement fee of \$20 under those subsections. Article 45.052(e) is revised in this article as Subsections (g) and (h) and Article 45.052(g) is revised in this article as Subsections (j) and (k). Because the relevant portions of Articles 45.052(e) and (g) relating to the amount of the reimbursement fee are revised in this article as Subsections (g) and (j), it is unnecessary to include a cross-reference to Subsection (h) or (k) of this article. The revised law is drafted accordingly.

18 Revised Law

Art. 45A.402. DISMISSAL OF COMPLAINT ON COMMITMENT OF PERSON WITH CHEMICAL DEPENDENCY. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by fine only, a justice or municipal court may defer further proceedings for a 90-day period without entering an adjudication of guilt if:

- 25 (1) the court finds that the offense resulted from or 26 was related to the defendant's chemical dependency; and
- (2) an application for court-ordered treatment of the defendant is filed in accordance with Chapter 462, Health and Safety Code.
- 30 (b) At the end of the deferral period, the justice or 31 municipal court shall dismiss the complaint if satisfactory 32 evidence is presented that the defendant was committed for and 33 completed court-ordered treatment in accordance with Chapter 462, 34 Health and Safety Code. If a complaint is dismissed under this

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

- 1 subsection, there is not a final conviction and the complaint may
- 2 not be used against the person for any purpose. The docket must
- 3 clearly note that the court dismissed the complaint and that there
- 4 is not a final conviction. Records relating to a complaint
- 5 dismissed under this subsection may be expunged under Subchapter A,
- 6 B, or C, Chapter 55A.

- 7 (c) If at the conclusion of the deferral period satisfactory
- 8 evidence described by Subsection (b) is not presented, the justice
- 9 or municipal court may impose the fine assessed or a lesser fine.
- 10 The imposition of the fine constitutes a final conviction of the
- 11 defendant. (Code Crim. Proc., Art. 45.053.)

12 <u>Source Law</u>

Art. 45.053. DISMISSAL OF MISDEMEANOR CHARGE ON COMMITMENT OF CHEMICALLY DEPENDENT PERSON. (a) On a plea of guilty or nolo contendere by a defendant or on a finding of guilt in a misdemeanor case punishable by a fine only, a justice or municipal court may defer further proceedings for 90 days without entering an adjudication of guilt if:

(1) the court finds that the offense resulted from or was related to the defendant's

chemical dependency; and

(2) an application for court-ordered treatment of the defendant is filed in accordance with Chapter 462, Health and Safety Code.

- (b) At the end of the deferral period, the justice or municipal court shall dismiss the charge if satisfactory evidence is presented that the defendant was committed for and completed court-ordered treatment in accordance with Chapter 462, Health and Safety Code, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.
- (c) If at the conclusion of the deferral period satisfactory evidence that the defendant was committed for and completed court-ordered treatment in accordance with Chapter 462, Health and Safety Code, is not presented, the justice or municipal court may impose the fine assessed or impose a lesser fine. The imposition of a fine constitutes a final conviction of the defendant.
- (d) Records relating to a complaint dismissed under this article may be expunged under Article 55.01 of this code. If a complaint is dismissed under this article, there is not a final conviction and the complaint may not be used against the person for any purpose.

Revisor's Note

(1) Article 45.053(d), Code of Criminal Procedure, refers to a complaint dismissed "under this article." The relevant portion of Article 45.053 is

- revised as Subsection (b) of this article, and the revised law is drafted accordingly.
- 3 (2) Article 45.053(d), Code of Criminal
 4 Procedure, provides that certain dismissed complaints
 5 may be expunged under Article 55.01 of that code. The
 6 relevant portion of Article 55.01 is revised in
 7 Subchapters A, B, and C, Chapter 55A, Code of Criminal
 8 Procedure, and the revised law is drafted accordingly.

9 Revised Law

- Art. 45A.403. DISMISSAL OF PARENT CONTRIBUTING 10 TΟ NONATTENDANCE CHARGE. Notwithstanding any other law, a county, 11 justice, or municipal court may dismiss a charge against a 12 defendant alleging the defendant committed an offense under Section 13 25.093, Education Code, if the court finds that a dismissal would be 14 in the interest of justice because: 15
- 16 (1) there is a low likelihood of recidivism by the 17 defendant; or
- 18 (2) sufficient justification exists for the failure of 19 the defendant's child to attend school. (Code Crim. Proc., Art. 20 45.0531.)

21 Source Law

Art. 45.0531. DISMISSAL OF PARENT CONTRIBUTING TO NONATTENDANCE CHARGE. Notwithstanding any other law, a county, justice, or municipal court, at the court's discretion, may dismiss a charge against a defendant alleging the defendant committed an offense under Section 25.093, Education Code, if the court finds that a dismissal would be in the interest of justice because:

(1) there is a low likelihood of recidivism by the defendant; or

(2) sufficient justification exists for the failure to attend school.

Revisor's Note

Article 45.0531, Code of Criminal Procedure, provides that a court may dismiss certain charges "at the court's discretion." The revised law omits the quoted language as unnecessary because, in this context, it is included within the meaning of "may."

22

23

242526

27 28 29

30

31

32 33

34

35

36

37

38

SUBCHAPTER J. CASES INVOLVING JUVENILES

- Art. 45A.451. JUVENILE CASE MANAGERS. (a) On approval of the commissioners court, governing body of a municipality, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate
- 8 governmental entity may:
- 9 (1) employ a case manager to provide services:
- 10 (A) in cases involving juvenile offenders who are
- 11 before a court consistent with the court's statutory powers; or
- 12 (B) to a juvenile who is referred to a court by a
- 13 school administrator or designee for misconduct that would
- 14 otherwise be within the court's statutory powers before a case is
- 15 filed, with the consent of the juvenile and the juvenile's parents
- 16 or guardians;

- 17 (2) employ one or more juvenile case managers who:
- 18 (A) shall assist the court in administering the
- 19 court's juvenile docket and in supervising the court's orders in
- 20 juvenile cases; and
- 21 (B) may provide:
- (i) prevention services to a child
- 23 considered at risk of entering the juvenile justice system; and
- 24 (ii) intervention services to a juvenile
- 25 engaged in misconduct, excluding traffic offenses, if a case has
- 26 not yet been filed with respect to the misconduct; or
- 27 (3) agree in accordance with Chapter 791, Government
- 28 Code, with any appropriate governmental entity to jointly employ a
- 29 case manager or to jointly contribute to the costs of a case manager
- 30 employed by one governmental entity to provide services described
- 31 by Subdivisions (1) and (2).
- 32 (a-1) A county or justice court on approval of the
- 33 commissioners court or a municipality or municipal court on
- 34 approval of the governing body of the municipality may employ one or

- 1 more juvenile case managers who:
- 2 (1) shall assist the court in administering the
- 3 court's juvenile docket and in supervising the court's orders in
- 4 juvenile cases; and
- 5 (2) may provide:
- 6 (A) prevention services to a child considered at
- 7 risk of entering the juvenile justice system; and
- 8 (B) intervention services to a juvenile engaged
- 9 in misconduct, excluding traffic offenses, if a case has not yet
- 10 been filed with respect to the misconduct.
- 11 (b) A local entity may apply or more than one local entity
- 12 may jointly apply to the criminal justice division of the
- 13 governor's office for reimbursement of all or part of the costs of
- 14 employing one or more juvenile case managers from funds
- 15 appropriated to the governor's office or otherwise available for
- 16 that purpose.
- 17 (c) To be eligible for reimbursement under Subsection (b),
- 18 the entity applying must present to the governor's office a
- 19 comprehensive plan to reduce juvenile offenses in the entity's
- 20 jurisdiction. The plan must address the role of the case manager in
- 21 that effort.
- (d) An entity that jointly employs a case manager under
- 23 Subsection (a)(3) employs a juvenile case manager for purposes of
- 24 Chapter 102.
- (e) The court or governing body may pay, from the local
- 26 truancy prevention and diversion fund established under Section
- 27 134.156, Local Government Code:
- 28 (1) the salary and benefits of a juvenile case
- 29 manager; and
- 30 (2) the costs of training, travel, office supplies,
- 31 and other necessary expenses relating to the position of the
- 32 juvenile case manager.
- 33 (f) A juvenile case manager employed under Subsection (a-1)
- 34 shall give priority to cases brought under Section 25.093,

- 1 Education Code.
- 2 (g) The governing body of the employing governmental entity
- 3 under Subsection (a) shall adopt reasonable rules for juvenile case
- 4 managers that provide for:
- 5 (1) a code of ethics and the enforcement of the code of
- 6 ethics;
- 7 (2) appropriate educational preservice and in-service
- 8 training standards for juvenile case managers; and
- 9 (3) training in:
- 10 (A) the role of the juvenile case manager;
- 11 (B) case planning and management;
- 12 (C) applicable procedural and substantive law;
- 13 (D) courtroom proceedings and presentation;
- 14 (E) services to at-risk youth under Subchapter D,
- 15 Chapter 264, Family Code;
- 16 (F) local programs and services for juveniles and
- 17 methods by which juveniles may access those programs and services;
- 18 and
- 19 (G) detecting and preventing abuse,
- 20 exploitation, and neglect of juveniles.
- 21 (h) The employing court or governmental entity under this
- 22 article shall implement the rules adopted under Subsection (g).
- (i) The commissioners court or governing body of the
- 24 municipality that administers a local truancy prevention and
- 25 diversion fund under Section 134.156, Local Government Code, shall
- 26 require periodic review of juvenile case managers to ensure the
- 27 implementation of the rules adopted under Subsection (g).
- 28 (j) The juvenile case manager shall timely report to the
- 29 judge who signed the applicable order or judgment and, on request,
- 30 to the judge assigned to the case or the presiding judge any
- 31 information or recommendations relevant to assisting the judge in
- 32 making decisions that are in the best interest of the child.
- 33 (k) The judge who is assigned to the case shall consult with
- 34 the juvenile case manager who is supervising the case regarding:

1	<pre>(1) the child's home environment;</pre>						
2	(2) the child's developmental, psychological, and						
3	educational status;						
4	(3) the child's previous interaction with the justice						
5	system; and						
6	(4) any sanctions available to the court that would be						
7	in the best interest of the child.						
8	(1) Subsections (j) and (k) do not apply to:						
9	(1) a part-time judge; or						
10	(2) a county judge of a county court that has one or						
11	more appointed full-time magistrates under Section 54.1172,						
12	Government Code. (Code Crim. Proc., Art. 45.056.)						
13	Source Law						
14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 31 33 33 34 35 36 36 36 36 36 36 36 36 36 36 36 36 36	Art. 45.056. JUVENILE CASE MANAGERS. (a) On approval of the commissioners court, city council, school district board of trustees, juvenile board, or other appropriate authority, a county court, justice court, municipal court, school district, juvenile probation department, or other appropriate governmental entity may: (1) employ a case manager to provide services in cases involving juvenile offenders who are before a court consistent with the court's statutory powers or referred to a court by a school administrator or designee for misconduct that would otherwise be within the court's statutory powers prior to a case being filed, with the consent of the juvenile and the juvenile's parents or guardians; (2) employ one or more juvenile case managers who: (A) shall assist the court in administering the court's juvenile docket and in supervising the court's orders in juvenile cases; and (B) may provide: (i) prevention services to a child considered at risk of entering the juvenile						
37 38 39 40 41 42 43 44 45 46 47 48 49 51 52 53 54	(ii) intervention services to juveniles engaged in misconduct before cases are filed, excluding traffic offenses; or (3) agree in accordance with Chapter 791, Government Code, with any appropriate governmental entity to jointly employ a case manager or to jointly contribute to the costs of a case manager employed by one governmental entity to provide services described by Subdivisions (1) and (2). (b) A local entity may apply or more than one local entity may jointly apply to the criminal justice division of the governor's office for reimbursement of all or part of the costs of employing one or more juvenile case managers from funds appropriated to the governor's office or otherwise available for that purpose. To be eligible for reimbursement, the entity applying must present to the governor's office a						

comprehensive plan to reduce juvenile crimes in the entity's jurisdiction that addresses the role of the case manager in that effort.

- (c) [as amended Acts 83rd Leg., R.S., Ch. 1213] An entity that jointly employs a case manager under Subsection (a)(3) employs a juvenile case manager for purposes of Chapter 102 of this code and Chapter 102, Government Code.
- (c) [as amended Acts 83rd Leg., R.S., Ch. 1407] A county or justice court on approval of the commissioners court or a municipality or municipal court on approval of the city council may employ one or more juvenile case managers who:
- (1) shall assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases; and
- (B) intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses.
- (d) The court or governing body may pay the salary and benefits of a juvenile case manager and the costs of training, travel, office supplies, and other necessary expenses relating to the position of the juvenile case manager from the local truancy prevention and diversion fund established under Section 134.156, Local Government Code.
- (e) A juvenile case manager employed under Subsection (c) shall give priority to cases brought under Sections 25.093 and 25.094, Education Code.
- (f) The governing body of the employing governmental entity under Subsection (a) shall adopt reasonable rules for juvenile case managers that provide:
- (1) a code of ethics, and for the enforcement of the code of ethics;
- (2) appropriate educational preservice and in-service training standards for juvenile case managers; and
 - (3) training in:
 - (A) the role of the juvenile case

manager;

- (B) case planning and management;
- (C) applicable procedural and

substantive law;

(D) courtroom proceedings and

presentation;

- (E) services to at-risk youth under Subchapter D, Chapter 264, Family Code;
- (F) local programs and services for juveniles and methods by which juveniles may access those programs and services; and
- (G) detecting and preventing abuse, exploitation, and neglect of juveniles.
- (g) The employing court or governmental entity under this article shall implement the rules adopted under Subsection (f).
- (h) The commissioners court or governing body of the municipality that administers a local truancy prevention and diversion fund under Section 134.156, Local Government Code, shall require periodic review of juvenile case managers to ensure the implementation of the rules adopted under Subsection (f).
- (i) The juvenile case manager shall timely report to the judge who signed the order or judgment

and, on request, to the judge assigned to the case or the presiding judge any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child.

- (j) The judge who is assigned to the case shall consult with the juvenile case manager who is supervising the case regarding:
 - (1) the child's home environment;
- (2) the child's developmental, psychological, and educational status;
- (3) the child's previous interaction with the justice system; and
- (4) any sanctions available to the court that would be in the best interest of the child.
 - (k) Subsections (i) and (j) do not apply to:

(1) a part-time judge; or

(2) a county judge of a county court that has one or more appointed full-time magistrates under Section 54.1172, Government Code.

Revisor's Note

- (1) Article 45.056(c), Code of Criminal Procedure, as amended by Chapter 1213 (S.B. 1419), Acts of the 83rd Legislature, Regular Session, 2013, states that an entity that jointly employs a case manager under certain circumstances employs a case manager for purposes of "Chapter 102, Government Code." The revised law omits the reference to Chapter 102, Government Code, because it was repealed by Chapters 915 (H.B. 3607) and 472 (S.B. 41), Acts of the 87th Legislature, Regular Session, 2021.
- (2) Article 45.056(e), Code of Criminal Procedure, states that a juvenile case manager employed "under Subsection (c)" shall give priority to certain cases. Subsection (c) was amended by Chapters 1213 (S.B. 1419) and 1407 (S.B. 393), Acts of the 83rd Legislature, Regular Session, 2013. Subsection (c) as by Chapter 1407 amended contains the relevant provision relating to the authority to employ juvenile case managers and is revised in this article as Subsection (a-1). The revised law is drafted accordingly.
- (3) Article 45.056(e), Code of Criminal Procedure, states that certain juvenile case managers

1

2

4

5 6 7

8

9

10 11

12

13

14

15

16

17 18 19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

- shall give priority to cases "brought under Sections
- 2 25.093 and 25.094, Education Code." The revised law
- omits the reference to Section 25.094, Education Code,
- because it was repealed by Chapter 935 (H.B. 2398),
- 5 Acts of the 84th Legislature, Regular Session, 2015.
- 6 Revised Law
- 7 Art. 45A.452. PLEA; APPEARANCE BY DEFENDANT AND PARENT.
- 8 (a) This article applies to a defendant who has not had the
- 9 disabilities of minority removed and has been:
- 10 (1) charged with an offense other than an offense
- 11 under Section 43.261, Penal Code, if the defendant is younger than
- 12 17 years of age; or
- 13 (2) charged with an offense under Section 43.261,
- 14 Penal Code, if the defendant is younger than 18 years of age.
- 15 (b) The judge or justice shall:
- 16 (1) take the defendant's plea in open court; and
- 17 (2) issue a summons to compel the defendant's parent,
- 18 guardian, or managing conservator to be present during:
- 19 (A) the taking of the defendant's plea; and
- 20 (B) all other proceedings relating to the case.
- (c) If the court is unable to secure the appearance of the
- 22 defendant's parent, guardian, or managing conservator by issuing a
- 23 summons, the court may, without the defendant's parent, guardian,
- 24 or managing conservator present, take the defendant's plea and
- 25 proceed against the defendant.
- 26 (d) If the defendant resides in a county other than the
- 27 county in which the alleged offense occurred, the defendant may,
- 28 with approval of the judge of the court of original jurisdiction,
- 29 enter a plea, including a plea under Article 45A.401, before a judge
- 30 in the county in which the defendant resides.
- 31 (e) A justice or municipal court shall endorse on the
- 32 summons issued to a parent an order to appear personally at a
- 33 hearing with the defendant. The summons must include a warning that
- 34 the failure of the parent to appear is a Class C misdemeanor and may

1	result in arrest.	(Code Crim.	Proc.	, Art.	45.0	215.)				
2	Source Law									
3	7 r + /	15 0215 DT	L1 DV	MINOD	7/1/10	V DDE.				

PLEA BY MINOR AND APPEARANCE OF (a) This article applies to a defendant who has not had the disabilities of minority removed and has been:

- (1)charged with an offense other than an offense under Section 43.261, Penal Code, if the defendant is younger than 17 years of age; or
- (2) charged with an offense under Section 43.261, Penal Code, if the defendant is younger than 18 years of age.
 (a-1) The judge or justice:

- must take the defendant's plea in open court; and
- (2) shall issue a summons to compel the defendant's parent, guardian, or managing conservator to be present during:
 - (A) the taking of the defendant's

plea; and

4 5

6

7

8

9

10

11

12 13 14

15

16

17

18 19

20

21

22

23

24 25

30

35

36

37

38

39 40

41

42

43

44

45

46

47

48

49

50

- (B) all other proceedings relating to
- the case. (b) Ιf the court is unable to secure appearance of the defendant's parent, guardian, managing conservator by issuance of a summons, the court may, without the defendant's parent, guardian, or managing conservator present, take the defendant's plea and proceed against the defendant.
- (c) If the defendant resides in a county other than the county in which the alleged offense occurred, the defendant may, with leave of the judge of the court of original jurisdiction, enter the plea, including a plea under Article 45.052, before a judge in the county in which the defendant resides.
- (d) A justice or municipal court shall endorse on the summons issued to a parent an order to appear personally at a hearing with the child. The summons must include a warning that the failure of the parent to appear may result in arrest and is a Class misdemeanor.

Revisor's Note

Article 45.0215(d), Code of Criminal Procedure, states that a court shall endorse an order to appear personally at a hearing with the "child." For consistency in terminology in this article, the law substitutes "defendant" revised for "child" because, in this context, the terms are synonymous and "defendant" is the more commonly used term in this article.

Revised Law

Art. 45A.453. CHILD TAKEN INTO CUSTODY. (a) 51 In this article, "child" means a person who is: 52

- 1 (1) at least 10 years of age and younger than 17 years
- 2 of age; and
- 3 (2) charged with or convicted of an offense that a
- 4 justice or municipal court has jurisdiction of under Article 4.11
- 5 or 4.14.
- 6 (b) A child may be released to the child's parent, guardian,
- 7 custodian, or other responsible adult as provided by Section
- 8 52.02(a)(1), Family Code, if the child is taken into custody for an
- 9 offense that a justice or municipal court has jurisdiction of under
- 10 Article 4.11 or 4.14.
- 11 (c) A child described by Subsection (b) must be taken only
- 12 to a place previously designated by the head of the law enforcement
- 13 agency with custody of the child as an appropriate place of
- 14 nonsecure custody for children unless the child:
- 15 (1) is released under Section 52.02(a)(1), Family
- 16 Code; or
- 17 (2) is taken before a justice or municipal court.
- 18 (d) A place of nonsecure custody for children must be an
- 19 unlocked, multipurpose area, such as:
- 20 (1) a lobby, office, or interrogation room, if the
- 21 area is not designated, set aside, or used as a secure detention
- 22 area and is not part of a secure detention area; or
- 23 (2) a juvenile processing office designated under
- 24 Section 52.025, Family Code, if the area is not locked when the area
- 25 is used as a place of nonsecure custody.
- 26 (e) The following procedures shall be followed in a place of
- 27 nonsecure custody for children:
- 28 (1) a child may not be secured physically to a cuffing
- 29 rail, chair, desk, or other stationary object;
- 30 (2) a child may be held in the nonsecure facility only
- 31 for the period necessary to complete:
- 32 (A) identification;
- 33 (B) investigation;
- 34 (C) processing;

- 1 (D) release to a parent, guardian, custodian, or
- 2 other responsible adult; or
- 3 (E) the arranging of transportation to the
- 4 appropriate juvenile court, juvenile detention facility, secure
- 5 detention facility, justice court, or municipal court;
- 6 (3) residential use of the area is prohibited; and
- 7 (4) a law enforcement officer or facility staff person
- 8 shall provide continuous visual supervision of a child while the
- 9 child is in nonsecure custody.
- 10 (f) Notwithstanding any other provision of this article, a
- 11 child may not be detained in a place of nonsecure custody for a
- 12 period of more than six hours.
- 13 (g) A child taken into custody for an offense that a justice
- 14 or municipal court has jurisdiction of under Article 4.11 or 4.14
- 15 may be presented or detained in a detention facility designated by
- 16 the juvenile board under Section 52.02(a)(3), Family Code, only if:
- 17 (1) the child's case is transferred to the juvenile
- 18 court by a justice or municipal court under Section 51.08(b),
- 19 Family Code; or
- 20 (2) the child is referred to the juvenile court by a
- 21 justice or municipal court for contempt of court under Article
- 22 45A.461.
- (h) Except as provided by Subsection (i) and Section
- 24 37.143(a), Education Code, for a traffic offense or an offense
- 25 punishable by fine only, a law enforcement officer may issue a
- 26 citation as provided by Article 14.06 instead of taking a child into
- 27 custody.
- 28 (i) A law enforcement officer may issue a citation as
- 29 provided by Article 14.06 instead of taking a child into custody for
- 30 conduct constituting a violation of Section 49.02, Penal Code, only
- 31 if the officer releases the child to the child's parent, guardian,
- 32 custodian, or other responsible adult. (Code Crim. Proc., Arts.
- 33 45.058(a), (b), (c), (d), (e), (f), (g), (g-1), (h).)

- Art. 45.058. CHILDREN TAKEN INTO CUSTODY. (a) A child may be released to the child's parent, guardian, custodian, or other responsible adult as provided by Section 52.02(a)(1), Family Code, if the child is taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.
- (b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:
- (1) is released under Section 52.02(a)(1), Family Code; or
- (2) is taken before a justice or municipal court.
- (c) A place of nonsecure custody for children must be an unlocked, multipurpose area. A lobby, office, or interrogation room is suitable if the area is not designated, set aside, or used as a secure detention area and is not part of a secure detention area. A place of nonsecure custody may be a juvenile processing office designated under Section 52.025, Family Code, if the area is not locked when it is used as a place of nonsecure custody.
- (d) The following procedures shall be followed in a place of nonsecure custody for children:
- (1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;
- (2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, secure detention facility, justice court, or municipal court;
- (3) residential use of the area is prohibited; and
- (4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.
- (e) Notwithstanding any other provision of this article, a child may not, under any circumstances, be detained in a place of nonsecure custody for more than six hours.
- (f) A child taken into custody for an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14 may be presented or detained in a detention facility designated by the juvenile court under Section 52.02(a)(3), Family Code, only if:
- (1) the child's non-traffic case is transferred to the juvenile court by a justice or municipal court under Section 51.08(b), Family Code; or
- (2) the child is referred to the juvenile court by a justice or municipal court for contempt of court under Article 45.050.
- (g) Except as provided by Subsection (g-1) and Section 37.143(a), Education Code, a law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for a traffic offense or an offense punishable by fine only.

- A law enforcement officer may issue a field release citation as provided by Article 14.06 in place of taking a child into custody for conduct constituting a violation of Section 49.02, Penal Code, only if the officer releases the child to the child's guardian, custodian, or other responsible parent, adult. (h) In this article, "child" means a person who is: at least 10 years of age and younger (1)
 - than 17 years of age; and

 (2) charged with or convicted of an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.

Revisor's Note

- (1) Article 45.058(d)(2), Code of Criminal Procedure, refers to releasing a child in custody to "parents." For consistency in terminology in this article and Section 52.02(a)(1), Family Code, the revised law substitutes for the quoted language "a parent, guardian, custodian, or other responsible adult."
- (2) Article 45.058(e), Code of Criminal Procedure, provides that notwithstanding any other provision of "this article," a child may not be detained in a place of nonsecure custody for more than six hours. Article 45.058 is revised in this chapter as both this article and Article 45A.454. The relevant portion of Article 45.058 is revised as this article, and the revised law is drafted accordingly.
- (3) Article 45.058(e), Code of Criminal Procedure, states that a child may not, "under any circumstances," be detained in a place of nonsecure custody for more than six hours. The revised law omits the quoted language as unnecessary because, in this context, it is included within the meaning of "may not."
- (4) Article 45.058(f), Code of Criminal Procedure, refers to a detention facility designated by the "juvenile court" under Section 52.02(a)(3), Family Code. The quoted language is a drafting error

2.1

- because Section 52.02(a)(3), Family Code, provides
 that this designation is made by the "juvenile board"
 rather than the "juvenile court." The revised law is
 drafted accordingly.
 - (5) Article 45.058(f)(1), Code of Criminal Procedure, refers to the transfer of a "non-traffic case" to certain courts under Section 51.08(b), Family Code. The revised law omits "non-traffic" as unnecessary because Section 51.08(b), Family Code, already excludes cases involving traffic offenses from being transferred under that section.
- (6) Articles 45.058(g) and (g-1), Code of
 Criminal Procedure, provide for a law enforcement
 officer to issue a "field release citation as provided
 by Article 14.06" for certain offenses or conduct. To
 conform with the terminology used in Article 14.06,
 Code of Criminal Procedure, the revised law omits
 "field release."

19 Revised Law

- Art. 45A.454. CONDUCT ALLEGED ON SCHOOL PROPERTY. (a) In this article, "child" has the meaning assigned by Article 45A.453(a).
- (b) If a law enforcement officer issues a citation or files
 a complaint in the manner provided by Article 45A.101(g) for
 conduct by a child 12 years of age or older that is alleged to have
 occurred on school property of or on a vehicle owned or operated by
 a county or independent school district, the officer shall submit
 to the court:
- 29 (1) the offense report;
- 30 (2) a statement by a witness to the alleged conduct;
- 31 and

5

6

7

8

9

10

- 32 (3) a statement by a victim of the alleged conduct, if
- 33 any.
- 34 (c) An attorney representing the state may not proceed in a

- 1 trial of an offense unless the law enforcement officer has complied
- 2 with the requirements of Subsection (b).
- 3 (d) Notwithstanding Article 45A.453(h) or (i), a law
- 4 enforcement officer may not issue a citation or file a complaint in
- 5 the manner provided by Article 45A.101(g) for conduct by a child
- 6 younger than 12 years of age that is alleged to have occurred on
- 7 school property of or on a vehicle owned or operated by a county or
- 8 independent school district. (Code Crim. Proc., Arts. 45.058(h),
- 9 (i), (j).)

10 Source Law

- (h) In this article, "child" means a person who
 is:
 - (1) at least 10 years of age and younger than 17 years of age; and
 - (2) charged with or convicted of an offense that a justice or municipal court has jurisdiction of under Article 4.11 or 4.14.
 - (i) If a law enforcement officer issues a citation or files a complaint in the manner provided by Article 45.018 for conduct by a child 12 years of age or older that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district, the officer shall submit to the court the offense report, a statement by a witness to the alleged conduct, and a statement by a victim of the alleged conduct, if any. An attorney representing the state may not proceed in a trial of an offense unless the law enforcement officer complied with the requirements of this subsection.
 - (j) Notwithstanding Subsection (g) or (g-1), a law enforcement officer may not issue a citation or file a complaint in the manner provided by Article 45.018 for conduct by a child younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district.

Revisor's Note

Articles 45.058(i) and (j), Code of Criminal Procedure, refer to a citation or complaint issued or filed by a law enforcement officer in the manner provided by Article 45.018 of that code. The relevant portion of Article 45.018 is revised as Article 45A.101(g), and the revised law is drafted accordingly.

Revised Law

Art. 45A.455. CHILD TAKEN INTO CUSTODY FOR VIOLATION OF

- 1 JUVENILE CURFEW OR ORDER. (a) In this article, "child" means a
- 2 person who is younger than 17 years of age.
- 3 (b) A peace officer taking a child into custody for a
- 4 violation of a juvenile curfew ordinance of a municipality or order
- 5 of the commissioners court of a county shall, without unnecessary
- 6 delay:
- 7 (1) release the child to the child's parent, guardian,
- 8 or custodian;
- 9 (2) take the child before a justice or municipal court
- 10 to answer the charge; or
- 11 (3) take the child to a place designated as a juvenile
- 12 curfew processing office by the head of the law enforcement agency
- 13 having custody of the child.
- 14 (c) A juvenile curfew processing office must observe the
- 15 following procedures:
- 16 (1) the office must be an unlocked, multipurpose area
- 17 that is not designated, set aside, or used as a secure detention
- 18 area or part of a secure detention area;
- 19 (2) the child may not be secured physically to a
- 20 cuffing rail, chair, desk, or stationary object;
- 21 (3) the child may not be held for a period longer than
- 22 is necessary to complete:
- 23 (A) identification;
- 24 (B) investigation;
- 25 (C) processing;
- 26 (D) release to a parent, guardian, or custodian;
- 27 or
- 28 (E) arrangement of transportation to school or
- 29 court;
- 30 (4) the office may not be designated or intended for
- 31 residential purposes;
- 32 (5) a peace officer or other individual shall provide
- 33 continuous visual supervision of a child while the child is in the
- 34 office; and

2	of more than six hours.
3	(d) A place designated under this article as a juvenile
4	curfew processing office is not subject to the approval of the
5	juvenile board having jurisdiction where the governmental entity is
6	located. (Code Crim. Proc., Art. 45.059; New.)
7	Source Law
8 9 0 1 1 2 3 1 4 5 6 7 8 9 0 1 1 2 3 1 4 5 6 7 8 9 0 1 2 3 2 4 5 6 7 8 9 0 1 2 3 3 3 3 3 3 3 3 3 3 4 4 4 4 4 4 4 4 4	Art. 45.059. CHILDREN TAKEN INTO CUSTODY FOR VIOLATION OF JUVENILE CURFEW OR ORDER. (a) A peace officer taking into custody a person younger than 17 years of age for violation of a juvenile curfew ordinance of a municipality or order of the commissioners court of a county shall, without unnecessary delay: (1) release the person to the person's parent, guardian, or custodian; (2) take the person before a justice or municipal court to answer the charge; or (3) take the person to a place designated as a juvenile curfew processing office by the head of the law enforcement agency having custody of the person. (b) A juvenile curfew processing office must observe the following procedures: (1) the office must be an unlocked, multipurpose area that is not designated, set aside, or used as a secure detention area or part of a secure detention area; (2) the person may not be secured physically to a cuffing rail, chair, desk, or stationary object; (3) the person may not be held longer than necessary to accomplish the purposes of identification, investigation, processing, release to a parent, guardian, or custodian, or arrangement of transportation to school or court; (4) a juvenile curfew processing office may not be designated or intended for residential purpose; (5) the person must be under continuous visual supervision by a peace officer or other person during the time the person is in the juvenile curfew processing office; and (6) a person may not be held in a juvenile curfew processing office for more than six hours. (C) A place designated under this article as a juvenile curfew processing office to the approval of the juvenile board having jurisdiction where the governmental entity is located.
50	Revisor's Note
51	The revised law adds a definition of "child" for
52	clarity and the convenience of the reader.
53	Revised Law
54	Art. 45A.456. CONTINUING OBLIGATION TO APPEAR FOR

(6) a child may not be held in the office for a period

- 1 UNADJUDICATED CHILD, NOW ADULT; OFFENSE. (a) Except as provided by
- 2 Articles 45A.453, 45A.454, and 45A.455, an individual may not be
- 3 taken into secured custody for offenses alleged to have occurred
- 4 before the individual's 17th birthday.
- 5 (b) On or after an individual's 17th birthday, if the court
- 6 has used all available procedures under this chapter to secure the
- 7 individual's appearance to answer allegations made before the
- 8 individual's 17th birthday, the court may issue a notice of
- 9 continuing obligation to appear, by personal service or by mail, to
- 10 the last known address and residence of the individual. The notice
- 11 must order the individual to appear at a designated time, place, and
- 12 date to answer the allegations detailed in the notice.
- 13 (c) Failure to appear as ordered by the notice under
- 14 Subsection (b) is a Class C misdemeanor independent of Section
- 15 38.10, Penal Code, and Section 543.009, Transportation Code.
- 16 (d) It is an affirmative defense to prosecution under
- 17 Subsection (c) that the individual was not informed of the
- 18 individual's obligation under Articles 45A.457(h) and (i) or did
- 19 not receive notice as required by Subsection (b) of this article.
- 20 (e) A notice of continuing obligation to appear issued under
- 21 this article must contain the following statement provided in
- 22 boldfaced type or capital letters:
- 23 "WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH
- 24 BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO
- 25 MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU
- 26 ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS
- 27 CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN
- 28 ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED
- 29 FOR YOUR ARREST." (Code Crim. Proc., Art. 45.060.)

30 Source Law

- 31 Art. 45.060. UNADJUDICATED CHILDREN, NOW 32 ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE.
- ADULTS; NOTICE ON REACHING AGE OF MAJORITY; OFFENSE.

 (a) Except as provided by Articles 45.058 and 45.059,
- an individual may not be taken into secured custody for
- offenses alleged to have occurred before the
- individual's 17th birthday.
- 37 (b) On or after an individual's 17th birthday,

if the court has used all available procedures under this chapter to secure the individual's appearance to answer allegations made before the individual's 17th birthday, the court may issue a notice of continuing obligation to appear by personal service or by mail to the last known address and residence of the individual. The notice must order the individual to appear at a designated time, place, and date to answer the allegations detailed in the notice.

(c) Failure to appear as ordered by the notice under Subsection (b) is a Class C misdemeanor independent of Section 38.10, Penal Code, and Section 543.003, Transportation Code.

- (d) It is an affirmative defense to prosecution under Subsection (c) that the individual was not informed of the individual's obligation under Articles 45.057(h) and (i) or did not receive notice as required by Subsection (b).
- (e) A notice of continuing obligation to appear issued under this article must contain the following statement provided in boldfaced type or capital letters:

"WARNING: COURT RECORDS REVEAL THAT BEFORE YOUR 17TH BIRTHDAY YOU WERE ACCUSED OF A CRIMINAL OFFENSE AND HAVE FAILED TO MAKE AN APPEARANCE OR ENTER A PLEA IN THIS MATTER. AS AN ADULT, YOU ARE NOTIFIED THAT YOU HAVE A CONTINUING OBLIGATION TO APPEAR IN THIS CASE. FAILURE TO APPEAR AS REQUIRED BY THIS NOTICE MAY BE AN ADDITIONAL CRIMINAL OFFENSE AND RESULT IN A WARRANT BEING ISSUED FOR YOUR ARREST."

Revisor's Note

Article 45.060(c), Code of Criminal Procedure, states that failure to appear as ordered under Subsection (b) of that article is offense an "independent of . . . Section 543.003, Transportation Code." The revised law substitutes "Section 543.009" for "Section 543.003" because, while Section 543.003 requires a peace officer to issue a notice to appear under certain circumstances, the offense for violating a promise to appear under that subchapter of the Transportation Code is provided by Section 543.009.

42 <u>Revised Law</u>

- Art. 45A.457. FINDING THAT OFFENSE COMMITTED. (a) In this 44 article:
- 45 (1) "Child" has the meaning assigned by Article 46 45A.453(a).
- 47 (2) "Parent" includes a person standing in parental 48 relation, a managing conservator, or a custodian.
- 49 (3) "Residence" means any place where the child lives

1

2

3

5 6 7

8

9

10

11

12

13

14

15

16 17

18

19

20

21

22

23

24 25

26

27

28 29

30

31

32

33

34

35

36

37

38

39

40

```
1 or resides for a period of not less than 30 days.
```

- 2 (b) On a finding by a justice or municipal court that a child
- 3 committed an offense that the court has jurisdiction of under
- 4 Article 4.11 or 4.14, the court has jurisdiction to enter an order:
- 5 (1) referring the child or the child's parent for
- 6 services under Section 264.302, Family Code;
- 7 (2) requiring that the child attend a special program
- 8 that the court determines to be in the best interest of the child
- 9 and, if the program involves the expenditure of municipal or county
- 10 funds, that is approved by the governing body of the municipality or
- 11 county commissioners court, as applicable, including a program for:
- 12 (A) rehabilitation;
- 13 (B) counseling;
- 14 (C) self-esteem and leadership;
- 15 (D) work and job skills training;
- 16 (E) job interviewing and work preparation;
- 17 (F) self-improvement;
- 18 (G) parenting;
- 19 (H) manners;
- 20 (I) violence avoidance;
- 21 (J) tutoring;
- 22 (K) sensitivity training;
- 23 (L) parental responsibility;
- 24 (M) community service;
- 25 (N) restitution;
- 26 (O) advocacy; or
- 27 (P) mentoring; or
- 28 (3) requiring that the child's parent perform any act
- 29 or refrain from performing any act as the court determines will
- 30 increase the likelihood that the child will comply with the orders
- 31 of the court and that is reasonable and necessary for the welfare of
- 32 the child, including:
- (A) attend a parenting class or parental
- 34 responsibility program; and

- 1 (B) attend the child's school classes or
- 2 functions.
- 3 (c) The justice or municipal court may order the parent of a
- 4 child required to attend a program under Subsection (b) to pay an
- 5 amount not to exceed \$100 for the costs of the program.
- 6 (d) A justice or municipal court may require a child or
- 7 parent required to attend a program, class, or function under this
- 8 article to submit proof of attendance to the court.
- 9 (e) A justice or municipal court shall endorse on the
- 10 summons issued to a parent an order to appear personally at the
- 11 hearing with the child. The summons must include a warning that the
- 12 failure of the parent to appear is a Class C misdemeanor and may
- 13 result in arrest.
- 14 (f) An order under this article involving a child is
- 15 enforceable under Article 45A.461.
- 16 (g) A person commits an offense if the person is a parent who
- 17 fails to attend a hearing under this article after receiving an
- 18 order under Subsection (e). An offense under this subsection is a
- 19 Class C misdemeanor.
- 20 (h) A child and parent required to appear before the court
- 21 have an obligation to provide the child's current address and
- 22 residence to the court in writing. The obligation does not end when
- 23 the child reaches age 17. On or before the seventh day after the
- 24 date the child or parent changes residence, the child or parent
- 25 shall notify the court of the current address in the manner directed
- 26 by the court. A violation of this subsection is a Class C
- 27 misdemeanor and may result in arrest. The obligation to provide
- 28 notice terminates on discharge and satisfaction of the judgment or
- 29 a final disposition not requiring a finding of guilt.
- 30 (i) If an appellate court accepts an appeal for a trial de
- 31 novo, the child and parent shall provide the notice under
- 32 Subsection (h) to the appellate court.
- 33 (j) The child and parent are entitled to written notice of
- 34 their obligation under Subsections (h) and (i), which may be

- 1 satisfied if a copy of those subsections is delivered to the child
- 2 and parent by:
- 3 (1) the court during their initial appearance before
- 4 the court;
- 5 (2) a peace officer arresting and releasing a child
- 6 under Article 45A.453(b) at the time of release; or
- 7 (3) a peace officer who issues a notice to appear under
- 8 Section 543.003, Transportation Code, or a citation under Article
- 9 14.06(b).
- 10 (k) It is an affirmative defense to prosecution under
- 11 Subsection (h) that the child and parent were not informed of their
- 12 obligation under this article.
- 13 (1) Any order under this article is enforceable by the
- 14 justice or municipal court by contempt. (Code Crim. Proc., Art.
- 15 45.057.)

20

21

22

23

2425

26

27

28

29

30

31

32

33

34

35

36

37

38 39

40

41

42

43

44

45

46

47 48 49

50

51

16 <u>Source Law</u>

- 17 Art. 45.057. OFFENSES COMMITTED BY JUVENILES. 18 (a) In this article:
 - (1) "Child" has the meaning assigned by Article 45.058(h).
 - (2) "Residence" means any place where the child lives or resides for a period of at least 30 days.
 - (3) "Parent" includes a person standing in parental relation, a managing conservator, or a custodian.
 - (b) On a finding by a justice or municipal court that a child committed an offense that the court has jurisdiction of under Article 4.11 or 4.14, the court has jurisdiction to enter an order:
 - (1) referring the child or the child's parent for services under Section 264.302, Family Code;
 - requiring that the child attend special program that the court determines to be in the best interest of the child and, if the program involves the expenditure of municipal or county funds, that is approved by the governing body of the municipality or county commissioners court, as applicable, including a counseling, rehabilitation, self-esteem and job skills leadership, work and training, job interviewing and work preparation, self-improvement, tutoring, parenting, manners, violence avoidance, training, sensitivity parental responsibility, restitution, community service, advocacy, mentoring program; or
 - (3) requiring that the child's parent do any act or refrain from doing any act that the court determines will increase the likelihood that the child will comply with the orders of the court and that is reasonable and necessary for the welfare of the child,

including:

- (A) attend a parenting class or parental responsibility program; and
- (B) attend the child's school classes or functions.
- (c) The justice or municipal court may order the parent, managing conservator, or guardian of a child required to attend a program under Subsection (b) to pay an amount not greater than \$100 to pay for the costs of the program.
- (d) A justice or municipal court may require a child, parent, managing conservator, or guardian required to attend a program, class, or function under this article to submit proof of attendance to the court.
- (e) A justice or municipal court shall endorse on the summons issued to a parent an order to appear personally at the hearing with the child. The summons must include a warning that the failure of the parent to appear may result in arrest and is a Class C misdemeanor.
- (f) An order under this article involving a child is enforceable under Article 45.050.
- (g) A person commits an offense if the person is a parent, managing conservator, or guardian who fails to attend a hearing under this article after receiving an order under Subsection (e). An offense under this subsection is a Class C misdemeanor.
- (h) A child and parent required to appear before the court have an obligation to provide the court in writing with the current address and residence of the child. The obligation does not end when the child reaches age 17. On or before the seventh day after the date the child or parent changes residence, the child or parent shall notify the court of the current address in the manner directed by the court. A violation of this subsection may result in arrest and is a Class C misdemeanor. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt.
- (i) If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice under Subsection (h) to the appellate court.
- (j) The child and parent are entitled to written notice of their obligation under Subsections (h) and (i), which may be satisfied by being given a copy of those subsections by:
- (1) the court during their initial appearance before the court;
- (2) a peace officer arresting and releasing a child under Article 45.058(a) on release; and
- (3) a peace officer that issues a citation under Section 543.003, Transportation Code, or Article 14.06(b) of this code.
- (k) It is an affirmative defense to prosecution under Subsection (h) that the child and parent were not informed of their obligation under this article.
- (1) Any order under this article is enforceable by the justice or municipal court by contempt.

Revisor's Note

Articles 45.057(c), (d), and (g), Code of Criminal Procedure, refer to a child's "parent" or

"quardian." Article 45.057(a)(3), Code of Criminal 1 2 Procedure, provides a definition of parent that 3 includes a "person standing in parental relation." revised law omits "guardian" as unnecessary 4 The because, in this context, "guardian" is included in 5 meaning of а "person standing in parental 6 relation." 7

8 Revised Law

9 Art. 45A.458. FINDING OF ELECTRONIC TRANSMISSION OF CERTAIN
10 VISUAL MATERIAL DEPICTING MINOR. (a) In this article, "parent"
11 means a natural or adoptive parent, managing or possessory
12 conservator, or legal guardian. The term does not include a parent
13 whose parental rights have been terminated.

- (b) If a justice or municipal court finds that a defendant has committed an offense under Section 43.261, Penal Code, the court may enter an order requiring the defendant to attend and successfully complete an educational program described by Section 37.218, Education Code, or another equivalent educational program.
- 19 (c) A court that enters an order under Subsection (b) shall 20 require the defendant or the defendant's parent to pay the cost of 21 attending an educational program under Subsection (b) if the court 22 determines that the defendant or the defendant's parent is 23 financially able to pay. (Code Crim. Proc., Art. 45.061.)

24 <u>Source Law</u>

Art. 45.061. PROCEEDINGS CONCERNING ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR. (a) In this article, "parent" means a natural or adoptive parent, managing or possessory conservator, or legal guardian. The term does not include a parent whose parental rights have been terminated.

- (b) If a justice or municipal court finds that a defendant has committed an offense under Section 43.261, Penal Code, the court may enter an order requiring the defendant to attend and successfully complete an educational program described by Section 37.218, Education Code, or another equivalent educational program.
- (c) A court that enters an order under Subsection (b) shall require the defendant or the defendant's parent to pay the cost of attending an educational program under Subsection (b) if the court determines that the defendant or the defendant's

25

26

27

28

29

30 31

32

33 34

35 36

37

38 39

40

41 42

- parent is financially able to make payment.
- 2 Revised Law
- 3 Art. 45A.459. COMMUNITY SERVICE TO SATISFY FINES OR COSTS
- 4 FOR CERTAIN JUVENILE DEFENDANTS. (a) This article applies only to
- 5 a defendant younger than 17 years of age who is assessed a fine or
- 6 cost for a Class C misdemeanor.
- 7 (b) A justice or judge may require a defendant described by
- 8 Subsection (a) to discharge all or part of the fine or cost by
- 9 performing community service.
- 10 (c) An order requiring a defendant to perform community
- 11 service under this article must specify:
- 12 (1) the number of hours of community service the
- 13 defendant is required to perform, not to exceed 200 hours; and
- 14 (2) the date by which the defendant must submit to the
- 15 court documentation verifying that the defendant completed the
- 16 community service.
- 17 (d) The justice or judge may order the defendant to perform
- 18 community service under this article:
- 19 (1) by attending:
- 20 (A) a work and job skills training program;
- 21 (B) a preparatory class for the high school
- 22 equivalency examination administered under Section 7.111,
- 23 Education Code;
- (C) an alcohol or drug abuse program;
- 25 (D) a rehabilitation program;
- 26 (E) a counseling program, including a
- 27 self-improvement program;
- 28 (F) a mentoring program; or
- 29 (G) any similar activity; or
- 30 (2) for:
- 31 (A) a governmental entity;
- 32 (B) a nonprofit organization or another
- 33 organization that provides to the general public services that
- 34 enhance social welfare and the general well-being of the community,

- 1 as determined by the justice or judge; or
- 2 (C) an educational institution.
- 3 (e) An entity that accepts a defendant to perform community
- 4 service under this article must agree to:
- 5 (1) supervise, either on-site or remotely, the
- 6 defendant in the performance of the defendant's community service;
- 7 and
- 8 (2) report on the defendant's community service to the
- 9 justice or judge who ordered the service.
- 10 (f) A justice or judge may not order a defendant to perform
- 11 more than 16 hours of community service each week under this article
- 12 unless the justice or judge determines that requiring the defendant
- 13 to perform additional hours does not impose an undue hardship on the
- 14 defendant or the defendant's family, as defined by Section 71.003,
- 15 Family Code.
- 16 (g) A sheriff, employee of a sheriff's department, county
- 17 commissioner, county employee, county judge, justice of the peace,
- 18 municipal court judge, or officer or employee of a political
- 19 subdivision other than a county or an entity that accepts a
- 20 defendant to perform community service under this article is not
- 21 liable for damages arising from an act or failure to act in
- 22 connection with community service performed by a defendant under
- 23 this article if the act or failure to act:
- 24 (1) was performed pursuant to court order; and
- 25 (2) was not intentional, wilfully or wantonly
- 26 negligent, or performed with conscious indifference or reckless
- 27 disregard for the safety of others.
- 28 (h) A local juvenile probation department or a
- 29 court-related services office may provide the administrative and
- 30 other services necessary to supervise a defendant required to
- 31 perform community service under this article.
- 32 (i) A defendant is considered to have discharged not less
- 33 than \$100 of fines or costs for each eight hours of community
- 34 service performed under this article.

1	(j) A defendant may discharge an obligation to perform
2	community service under this article by paying at any time the fine
3	and costs assessed. (Code Crim. Proc., Art. 45.0492, as added Acts
4	82nd Leg., R.S., Ch. 777.)
5	Source Law
6 7	Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. (a)
8 9	This article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a
10 11	Class C misdemeanor. (b) A justice or judge may require a defendant
12 13	described by Subsection (a) to discharge all or part of the fine or costs by performing community service. A
14 15	defendant may discharge an obligation to perform community service under this article by paying at any
16 17	time the fine and costs assessed. (c) In the justice's or judge's order requiring
18 19	a defendant to perform community service under this article, the justice or judge shall specify:
20 21	(1) the number of hours of community service the defendant is required to perform, not to
22 23	exceed 200 hours; and (2) the date by which the defendant must
24 25	submit to the court documentation verifying the defendant's completion of the community service.
26 27	(d) The justice or judge may order the defendant to perform community service under this article:
28 29	(1) by attending: (A) a work and job skills training
30 31	program; (B) a preparatory class for the high
32 33	school equivalency examination administered under Section 7.111, Education Code;
34 35	(C) an alcohol or drug abuse program;(D) a rehabilitation program;
36 37	<pre>(E) a counseling program, including a self-improvement program;</pre>
38 39	(F) a mentoring program; or(G) any similar activity; or
40 41	<pre>(2) for:</pre>
42 43	(B) a nonprofit organization or another organization that provides services to the
44 45	general public that enhance social welfare and the general well-being of the community, as determined by
46 47	the justice or judge; or (C) an educational institution.
48 49	(d-1) An entity that accepts a defendant under this article to perform community service must agree
50 51	to supervise, either on-site or remotely, the defendant in the performance of the defendant's
52 53	community service and report on the defendant's community service to the justice or judge who ordered
54 55	the service. (e) A justice or judge may not order a defendant
56 57	to perform more than 16 hours of community service per week under this article unless the justice or judge
58 59	determines that requiring the defendant to perform additional hours does not impose an undue hardship on
60 61	the defendant or the defendant's family. For purposes of this subsection, "family" has the meaning assigned
62	by Section 71.003, Family Code.

- (f) A sheriff, employee of a sheriff's department, county commissioner, county employee, county judge, justice of the peace, municipal court judge, or officer or employee of a political subdivision other than a county or an entity that accepts a defendant under this article to perform community service is not liable for damages arising from an act or failure to act in connection with community service performed by a defendant under this article if the act or failure to act:
 - (1) was performed pursuant to court order;
- (2) was not intentional, wilfully or wantonly negligent, or performed with conscious indifference or reckless disregard for the safety of
- (g) A local juvenile probation department or a court-related services office may provide the administrative and other services necessary for supervision of a defendant required to perform community service under this article.
- (h) A defendant is considered to have discharged not less than \$100 of fines or costs for each eight hours of community service performed under this article.

26 <u>Revised Law</u>

others.

- 27 Art. 45A.460. COMMUNITY SERVICE TO SATISFY FINES OR COSTS
- 28 FOR CERTAIN JUVENILE DEFENDANTS FOR OFFENSES ON SCHOOL GROUNDS.
- 29 (a) This article applies only to a defendant younger than 17 years
- 30 of age who is assessed a fine or cost for a Class C misdemeanor
- 31 occurring in a building or on the grounds of the primary or
- 32 secondary school at which the defendant was enrolled at the time of
- 33 the offense.

1

2

3

9 10 11

12 13

14 15 16

17

18

19 20

21 22

23

24

- 34 (b) A justice or judge may require a defendant described by
- 35 Subsection (a) to discharge all or part of the fine or cost by
- 36 performing community service.
- 37 (c) An order requiring a defendant to perform community
- 38 service under this article must specify:
- 39 (1) the number of hours of community service the
- 40 defendant is required to perform; and
- 41 (2) the date by which the defendant must submit to the
- 42 court documentation verifying that the defendant completed the
- 43 community service.
- (d) The justice or judge may order the defendant to perform
- 45 community service under this article:
- 46 (1) by attending:

- 1 (A) a work and job skills training program;
- 2 (B) a preparatory class for the high school
- 3 equivalency examination administered under Section 7.111,
- 4 Education Code;
- 5 (C) an alcohol or drug abuse program;
- 6 (D) a rehabilitation program;
- 7 (E) a counseling program, including a
- 8 self-improvement program;
- 9 (F) a mentoring program;
- 10 (G) a tutoring program; or
- 11 (H) any similar activity; or
- 12 (2) for:
- 13 (A) a governmental entity;
- 14 (B) a nonprofit organization or another
- 15 organization that provides to the general public services that
- 16 enhance social welfare and the general well-being of the community,
- 17 as determined by the justice or judge; or
- 18 (C) an educational institution.
- 19 (e) An entity that accepts a defendant to perform community
- 20 service under this article must agree to:
- 21 (1) supervise, either on-site or remotely, the
- 22 defendant in the performance of the defendant's community service;
- 23 and
- 24 (2) report on the defendant's community service to the
- 25 justice or judge who ordered the service.
- 26 (f) A justice or judge may not order a defendant to perform
- 27 more than 16 hours of community service each week under this article
- 28 unless the justice or judge determines that requiring the defendant
- 29 to perform additional hours does not impose an undue hardship on the
- 30 defendant or the defendant's family, as defined by Section 71.003,
- 31 Family Code.
- 32 (g) A sheriff, employee of a sheriff's department, county
- 33 commissioner, county employee, county judge, justice of the peace,
- 34 municipal court judge, or officer or employee of a political

- 1 subdivision other than a county or an entity that accepts a
- defendant to perform community service under this article is not 2
- 3 liable for damages arising from an act or failure to act in
- 4 connection with community service performed by a defendant under
- this article if the act or failure to act: 5
- 6 (1)was performed pursuant to court order; and
- 7 not intentional, grossly negligent, (2)
- 8 performed with conscious indifference or reckless disregard for the
- 9 safety of others.
- 10 (h) Α local juvenile department probation or а
- 11 court-related services office may provide the administrative and
- other services necessary to supervise a defendant required to 12
- 13 perform community service under this article.
- A defendant is considered to have discharged not less 14 (i)
- than \$100 of fines or costs for each eight hours of community 15
- 16 service performed under this article.
- 17 (j) A defendant may discharge an obligation to perform
- community service under this article by paying at any time the fine 18
- 19 and costs assessed. (Code Crim. Proc., Art. 45.0492, as added Acts
- 20 82nd Leg., R.S., Ch. 227.)

23 24

25

26

27

28 29

30

31 32 33

34

35

36 37

38 39

40

41

42

43

44 45

46

21 Source Law

- Art. 45.0492. COMMUNITY SERVICE IN SATISFACTION OF FINE OR COSTS FOR CERTAIN JUVENILE DEFENDANTS. This article applies only to a defendant younger than 17 years of age who is assessed a fine or costs for a Class C misdemeanor occurring in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense.
- (b) A justice or judge may require a defendant described by Subsection (a) to discharge all or part of the fine or costs by performing community service. A defendant may discharge an obligation to perform community service under this article by paying at any time the fine and costs assessed.
- In the justice's or judge's order requiring (c) a defendant to perform community service under this article, the justice or judge must specify:

 (1) the number of hours of community
- the number hours service the defendant is required to perform; and
- the date by which the defendant must (2) court documentation verifying submit to the defendant's completion of the community service.
- The justice or judge may order the defendant to perform community service under this article:
 - (1)by attending:
 - (A) a work and job skills training

1	program;
2 3 4 5 6 7	(B) a preparatory class for the high
3 Λ	school equivalency examination administered under Section 7.111, Education Code;
5	(C) an alcohol or drug abuse program;
6	(D) a rehabilitation program;
7	(E) a counseling program, including a
8	self-improvement program;
9 10	<pre>(F) a mentoring program; (G) a tutoring program; or</pre>
11	(H) any similar activity; or
12	(2) for:
13	(A) a governmental entity;
14	(B) a nonprofit organization or
15 16	another organization that provides services to the general public that enhance social welfare and the
17	general well-being of the community, as determined by
18	the justice or judge; or
19	(C) an educational institution.
20	(d-1) An entity that accepts a defendant under
21 22	this article to perform community service must agree to supervise, either on-site or remotely, the
23	to supervise, either on-site or remotely, the defendant in the performance of the defendant's
24	community service and report on the defendant's
25	community service to the justice or judge who ordered
26	the service.
27	(f) A justice or judge may not order a defendant
28 29	to perform more than 16 hours of community service per week under this article unless the justice or judge
30	determines that requiring the defendant to perform
31	additional hours does not impose an undue hardship on
32	the defendant or the defendant's family. For purposes
33	of this subsection, "family" has the meaning assigned
34 35	by Section 71.003, Family Code. (g) A defendant is considered to have discharged
36	not less than \$100 of fines or costs for each eight
37	hours of community service performed under this
38	article.
39	(h) A sheriff, employee of a sheriff's department, county commissioner, county employee,
40 41	county judge, justice of the peace, municipal court
42	judge, or officer or employee of a political
43	subdivision other than a county or an entity that
44	accepts a defendant under this article to perform
45 46	community service is not liable for damages arising
47	from an act or failure to act in connection with community service performed by a defendant under this
48	article if the act or failure to act:
49	(1) was performed pursuant to court order;
50	and
51	(2) was not intentional, grossly
52 53	negligent, or performed with conscious indifference or reckless disregard for the safety of others.
54	(i) A local juvenile probation department or a
55	court-related services office may provide the
56	administrative and other services necessary for
57 58	supervision of a defendant required to perform community service under this article.
50	community service under this article.
59	Revised Law

Art. 45A.461. FAILURE TO PAY FINE OR APPEAR. (a) In this

61 article, "child" has the meaning assigned by Article 45A.453(a).

62 (b) A justice or municipal court may not order the 63 confinement of a child for:

- 1 (1) the failure to pay all or part of a fine or cost
- 2 imposed for the conviction of an offense punishable by fine only;
- 3 (2) the failure to appear for an offense committed by
- 4 the child; or
- 5 (3) contempt of another order of a justice or
- 6 municipal court.
- 7 (c) If a child fails to obey an order of a justice or
- 8 municipal court under circumstances that would constitute contempt
- 9 of court, the justice or municipal court, after providing notice
- 10 and an opportunity to be heard, may:
- 11 (1) refer the child to the appropriate juvenile court
- 12 for delinquent conduct for contempt of the order; or
- 13 (2) retain jurisdiction of the case, hold the child in
- 14 contempt of court, and order that:
- 15 (A) the contemnor pay a fine not to exceed \$500;
- 16 or
- 17 (B) the Department of Public Safety suspend the
- 18 contemnor's driver's license or permit or, if the contemnor does not
- 19 have a license or permit, deny the issuance of a license or permit
- 20 to the contemnor until the contemnor fully complies with the order.
- 21 (d) A justice or municipal court may hold a person in
- 22 contempt and impose a remedy authorized by Subsection (c)(2) if:
- 23 (1) the person was convicted for an offense committed
- 24 before the person's 17th birthday;
- 25 (2) the person failed to obey the order while the
- 26 person was 17 years of age or older; and
- 27 (3) the failure to obey occurred under circumstances
- 28 that constitute contempt of court.
- (e) A justice or municipal court may hold a person in
- 30 contempt and impose a remedy authorized by Subsection (c)(2) if the
- 31 person, while younger than 17 years of age, engaged in conduct in
- 32 contempt of an order issued by the court, but contempt proceedings
- 33 could not be held before the person's 17th birthday.
- 34 (f) A justice or municipal court that orders suspension or

- 1 denial of a driver's license or permit under Subsection (c)(2)(B)
- 2 shall notify the Department of Public Safety on receiving proof of
- 3 compliance with the orders of the justice or municipal court.
- 4 A justice or municipal court may not refer a person who
- violates a court order while 17 years of age or older to a juvenile 5
- 6 court for delinquency proceedings for contempt of court. (Code
- 7 Crim. Proc., Art. 45.050.)

10

11

12 13

14

15

16

17 18

19

20 21

22

23 24

25

26

27 28

33

34

35 36

37

38

39

40 41 42

43

44

45 46 47

48 49

50

51

52

53 54 55

56

57

58 59

8 Source Law

- FAILURE TO PAY FINE; FAILURE TO Art. 45.050. APPEAR; CONTEMPT: JUVENILES. (a) In this article, "child" has the meaning assigned by Article 45.058(h).
- (b) A justice or municipal court may not order the confinement of a child for:
- the failure to pay all or any part of a (1)fine or costs imposed for the conviction of an offense punishable by fine only;
- (2) the failure to appear for an offense committed by the child; or
- (3) contempt of another order of a justice
- or municipal court.

 (c) If a child fails to obey an order of justice or municipal court under circumstances that would constitute contempt of court, the justice or municipal court, after providing notice opportunity to be heard, may:
- refer the child to the appropriate (1)juvenile court for delinquent conduct for contempt of the justice or municipal court order; or
- (2) retain jurisdiction of the case, hold the child in contempt of the justice or municipal court, and order either or both of the following:
- that the contemnor pay a fine not (A) to exceed \$500; or
- (B) that the Department of Public Safety suspend the contemnor's driver's license or permit or, if the contemnor does not have a license or permit, to deny the issuance of a license or permit to the contemnor until the contemnor fully complies with the orders of the court.
- (d) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if:
- (1)the person was convicted offense committed before the person's 17th birthday;
- (2) the person failed to obey the order while the person was 17 years of age or older; and
- the failure to obey occurred under (3) circumstances that constitute contempt of court.
- (e) A justice or municipal court may hold a person in contempt and impose a remedy authorized by Subsection (c)(2) if the person, while younger than 17 years of age, engaged in conduct in contempt of an order issued by the justice or municipal court, but contempt proceedings could not be held before the person's 17th birthday.
- (f) A court that orders suspension or denial of driver's license or permit under Subsection (c)(2)(B) shall notify the Department of Public Safety on receiving proof of compliance with the orders of the

1 court. 2 A justice or municipal court may not refer a (g) child who violates a court order while 17 years of age 3 juvenile court delinquency 4 older for to а proceedings for contempt of court. 5

Revised Law

- 7 Art. 45A.462. CONFIDENTIAL RECORDS RELATED TO CERTAIN
- 8 CHARGES AGAINST OR CONVICTIONS OF CHILD. (a) In this article,
- 9 "child" has the meaning assigned by Article 45A.453(a).
- 10 (b) Except as provided by Article 15.27 and Subsection (c)
- 11 of this article, all records and files, including those held by law
- 12 enforcement, and information stored by electronic means or
- 13 otherwise, from which a record or file could be generated, relating
- 14 to a child who is charged with, is convicted of, is found not guilty
- 15 of, had a charge dismissed for, or is granted deferred disposition
- 16 for a fine-only misdemeanor offense other than a traffic offense
- 17 are confidential and may not be disclosed to the public.
- 18 (c) Information subject to Subsection (b) may be open to
- 19 inspection only by:
- 20 (1) a judge or court staff;
- 21 (2) a criminal justice agency for a criminal justice
- 22 purpose, as those terms are defined by Section 411.082, Government
- 23 Code;

6

- 24 (3) the Department of Public Safety;
- 25 (4) an attorney for a party to the proceeding;
- 26 (5) the child defendant; or
- 27 (6) the defendant's parent, guardian, or managing
- 28 conservator. (Code Crim. Proc., Art. 45.0217.)

29 Source Law

30 Art. 45.0217. CONFIDENTIAL RECORDS RELATED TO CHARGES AGAINST OR CONVICTION OF A CHILD. 31 (a) Except as provided by Article 15.27 and Subsection (b), all 32 records and files, including those 33 held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could 34 35 36 be generated, relating to a child who is charged with, 37 is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for 38 39 a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to 40 the public. 41

(b) Information subject to Subsection (a) may be open to inspection only by:

42

- judges or court staff; 1 justice 2 (2) a criminal agency 3 criminal justice purpose, as those terms are defined by Section 411.082, Government Code;
 (3) the Department of Public Safety; 4 5 6 (4)attorney for a party to the an proceeding; 8 (5) the child defendant; or
- 9 (6) the defendant's parent, guardian, or 10 managing conservator.
- 11 (c) In this article, "child" has the meaning assigned by Article 45.058(h).

13 Revised Law

- 14 Art. 45A.463. EXPUNCTION OF CERTAIN RECORDS OF CHILD OR
- 15 MINOR. (a) In this article, "child" has the meaning assigned by
- 16 Section 51.02, Family Code.
- 17 (b) This article does not apply to an offense otherwise 18 covered by:
- 19 (1) Chapter 106, Alcoholic Beverage Code; or
- 20 (2) Chapter 161, Health and Safety Code.
- 21 (c) On or after the person's 17th birthday, a person may
- 22 apply to the court in which the person was convicted to have the
- 23 conviction expunged as provided by this article if:
- 24 (1) the person was convicted of not more than one
- 25 offense described by Section 8.07(a)(4) or (5), Penal Code, while
- 26 the person was a child; or
- 27 (2) the person was convicted only once of an offense
- 28 under Section 43.261, Penal Code.
- 29 (d) The person must make a written request to have the
- 30 records expunged.
- 31 (e) The request must:
- 32 (1) be under oath; and
- 33 (2) contain the person's statement that the person was
- 34 not convicted of any additional offense or found to have engaged in
- 35 conduct indicating a need for supervision as described by
- 36 Subsection (g)(1) or (2), as applicable.
- 37 (f) The judge shall inform the person and any parent in open
- 38 court of the person's expunction rights and provide them with a copy
- 39 of this article.
- 40 (g) The court shall order the conviction, together with all

- 1 complaints, verdicts, sentences, and prosecutorial and law
- 2 enforcement records, and any other documents relating to the
- 3 offense, expunged from the person's record if the court finds that:
- 4 (1) for a person applying for the expunction of a
- 5 conviction for an offense described by Section 8.07(a)(4) or (5),
- 6 Penal Code, the person was not convicted of any other offense
- 7 described by those subdivisions while the person was a child; and
- 8 (2) for a person applying for the expunction of a
- 9 conviction for an offense described by Section 43.261, Penal Code,
- 10 the person was not found to have engaged in conduct indicating a
- 11 need for supervision described by Section 51.03(b)(6), Family Code,
- 12 while the person was a child.
- 13 (h) After entry of an order under Subsection (g), the person
- 14 is released from all disabilities resulting from the conviction and
- 15 the conviction may not be shown or made known for any purpose.
- 16 (i) Records of a person younger than 17 years of age
- 17 relating to a complaint may be expunged under this article if:
- 18 (1) the complaint was dismissed under Subchapter G,
- 19 Article 45A.401, or other law; or
- 20 (2) the person was acquitted of the offense.
- 21 (j) The justice or municipal court shall require a person
- 22 who requests expunction under this article to pay a reimbursement
- 23 fee in the amount of \$30 to defray the cost of notifying state
- 24 agencies of orders of expunction under this article.
- 25 (k) The procedures for expunction provided under this
- 26 article are separate and distinct from the expunction procedures
- 27 under Chapter 55A. (Code Crim. Proc., Art. 45.0216.)

28 <u>Source Law</u>

- 29 Art. 45.0216. EXPUNCTION OF CERTAIN CONVICTION 30 RECORDS. (a) In this article, "child" has the meaning assigned by Section 51.02, Family Code.
- 32 (b) A person may apply to the court in which the 33 person was convicted to have the conviction expunged 34 as provided by this article on or after the person's 35 17th birthday if:
- 17th birthday if:
 (1) the person was convicted of not more than one offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; or
- 39 (2) the person was convicted only once of

an offense under Section 43.261, Penal Code.

- (c) The person must make a written request to have the records expunged. The request must be under oath.
- (d) The request must contain the person's statement that the person was not convicted of any additional offense or found to have engaged in conduct indicating a need for supervision as described by Subsection (f)(1) or (2), as applicable.
- indicating a need for supervision as described by Subsection (f)(1) or (2), as applicable.

 (e) The judge shall inform the person and any parent in open court of the person's expunction rights and provide them with a copy of this article.
- (f) The court shall order the conviction, together with all complaints, verdicts, sentences, and prosecutorial and law enforcement records, and any other documents relating to the offense, expunged from the person's record if the court finds that:
- (1) for a person applying for the expunction of a conviction for an offense described by Section 8.07(a)(4) or (5), Penal Code, the person was not convicted of any other offense described by Section 8.07(a)(4) or (5), Penal Code, while the person was a child; and
- (2) for a person applying for the expunction of a conviction for an offense described by Section 43.261, Penal Code, the person was not found to have engaged in conduct indicating a need for supervision described by Section 51.03(b)(6), Family Code, while the person was a child.

 (f-1) After entry of an order under Subsection
- (f-1) After entry of an order under Subsection (f), the person is released from all disabilities resulting from the conviction and the conviction may not be shown or made known for any purpose.
- (g) This article does not apply to any offense otherwise covered by:
- (1) Chapter 106, Alcoholic Beverage Code; or
 - (2) Chapter 161, Health and Safety Code.
- (h) Records of a person under 17 years of age relating to a complaint may be expunged under this article if:
- (1) the complaint was dismissed under Article 45.051 or 45.052 or other law; or
- (2) the person was acquitted of the offense.
- (i) The justice or municipal court shall require a person who requests expungement under this article to pay a reimbursement fee in the amount of \$30 to defray the cost of notifying state agencies of orders of expungement under this article.
- (j) The procedures for expunction provided under this article are separate and distinct from the expunction procedures under Chapter 55.

Revised Law

- Art. 45A.464. EXPUNCTION OF RECORDS RELATED TO FAILURE TO ATTEND SCHOOL. (a) In this article, "truancy offense" means an offense committed under the former Section 25.094, Education Code.
- (b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to an expunction of the conviction or complaint and

- 1 records relating to the conviction or complaint.
- 2 Regardless of whether the individual has filed a
- 3 petition for expunction, the court in which the individual was
- convicted or a complaint for a truancy offense was filed shall order 4
- conviction, complaints, verdicts, sentences, 5 and other
- documents relating to the offense, including any documents in the 6
- possession of a school district or law enforcement agency, to be 7
- 8 expunged from the individual's record.
- After entry of the order, the individual is released 9
- from all disabilities resulting from the conviction or complaint, 10
- and the conviction or complaint may not be shown or made known for 11
- any purpose. (Code Crim. Proc., Art. 45.0541.) 12

13 Source Law

14

15

16 17

18

23

24

25

26 27

28 29

30 31

32 33

34

35

37

Art. 45.0541. EXPUNCTION OF FAILURE TO ATTEND In this article, "truancy SCHOOL RECORDS. (a) offense" means an offense committed under the former Section 25.094, Education Code.

- (b) An individual who has been convicted of a truancy offense or has had a complaint for a truancy offense dismissed is entitled to have the conviction or complaint and records relating to the conviction or complaint expunged.
- (c) Regardless of whether the individual has filed a petition for expunction, the court in which the individual was convicted or a complaint for a truancy offense was filed shall order the conviction, complaints, verdicts, sentences, and other documents relating to the offense, including any documents in the possession of a school district or law enforcement agency, to be expunged from the individual's record. After entry of the order, the individual is released from all disabilities resulting from the conviction or complaint, and the conviction or complaint may not be shown or made known for any purpose.

CHAPTER 55A. EXPUNCTION OF CRIMINAL RECORDS

SUBCHAPTER A. MANDATORY EXPUNCTION 36

- Art. 55A.001. 315 Art. 55A.002. 38
- 39 Art. 55A.003. PARDON FOR ACTUAL INNOCENCE

APPLICABILITY OF SUBCHAPTER

- 40 Art. 55A.004. PARDON FOR REASON OTHER THAN ACTUAL
- 41 INNOCENCE
- 42 Art. 55A.005.
- 43 Art. 55A.006.

1	SUBCHAPTE	CR B. SPECIAL CIRCUMSTANCES REQUIRING MANDATORY
2		EXPUNCTION
3	Art. 55A.051.	APPLICABILITY OF SUBCHAPTER
4	Art. 55A.052.	INDICTMENT OR INFORMATION NOT PRESENTED320
5	Art. 55A.053.	INDICTMENT OR INFORMATION DISMISSED OR
6		QUASHED
7	Art. 55A.054.	EXPIRATION OF LIMITATIONS PERIOD324
8	Ç	SUBCHAPTER C. DISCRETIONARY EXPUNCTION
9	Art. 55A.101.	APPELLATE COURT ACQUITTAL OR
10		RECOMMENDATION OF ATTORNEY
11		REPRESENTING STATE
12		SUBCHAPTER D. EXPUNCTION PROHIBITED
13	Art. 55A.151.	CONVICTION OR POTENTIAL PROSECUTION
14		ARISING FROM SAME CRIMINAL EPISODE326
15	Art. 55A.152.	DRIVER'S LICENSE SUSPENSION OR
16		REVOCATION
17	Art. 55A.153.	ARREST FOR VIOLATION OF COMMUNITY
18		SUPERVISION
19	Art. 55A.154.	CERTAIN PERSONS ABSCONDING AFTER ARREST328
20	SUBCHAPTER E.	PROCEDURES FOR AUTOMATIC ENTRY OF EXPUNCTION ORDER
21	Art. 55A.201.	TRIAL COURT ACQUITTAL
22	Art. 55A.202.	PARDON FOR ACTUAL INNOCENCE
23	Art. 55A.203.	CERTAIN SPECIALTY COURT PROGRAMS331
24	Art. 55A.204.	DUTIES OF ATTORNEY REPRESENTING STATE
25		REGARDING EXPUNCTION ORDER
26	Art. 55A.205.	REQUIRED CONTENT OF EXPUNCTION ORDER333
27	Art. 55A.206.	REQUIRED RETENTION OF CERTAIN DOCUMENTS
28		BY COURT
29	SUBCHAPTER F.	GENERAL PROCEDURES FOR SEEKING ENTRY OF EXPUNCTION
30		ORDER
31	Art. 55A.251.	FILING OF PETITION
32	Art. 55A.252.	FILING CERTAIN PETITIONS IN JUSTICE OR
33		MUNICIPAL COURT
34	Art. 55A.253.	CONTENTS OF PETITION

1	Art.	55A.254.	HEARING; NOTICE
2	Art.	55A.255.	ENTRY OF EXPUNCTION ORDER
3	Art.	55A.256.	APPLICATION FOR EXPUNCTION BASED ON
4			MISTAKEN IDENTITY
5	Art.	55A.257.	DEPARTMENT OF PUBLIC SAFETY MAY FILE
6			PETITION ON PERSON'S BEHALF
7	Art.	55A.258.	EXPUNCTION ON BEHALF OF DECEASED PERSON 344
8			SUBCHAPTER G. EXPUNCTION ORDER
9	Art.	55A.301.	REQUIRED CONTENT
10	Art.	55A.302.	RETENTION OF CERTAIN RECORDS AFTER
11			EXPUNCTION
12	Art.	55A.303.	APPEAL
13		SUBCHAPTE	R H. NOTICE AND DISPOSITION OF RECORDS FOLLOWING
14			EXPUNCTION ORDER
15	Art.	55A.351.	NOTICE OF EXPUNCTION ORDER
16	Art.	55A.352.	DUTY OF DEPARTMENT OF PUBLIC SAFETY352
17	Art.	55A.353.	DISPOSITION OF EXPUNGED RECORDS353
18	Art.	55A.354.	DISPOSITION OF RECORDS EXPUNGED DUE TO
19			MISTAKEN IDENTITY
20	Art.	55A.355.	PROVIDING EXPUNGED RECORDS TO PERSON WHO
21			IS SUBJECT OF EXPUNCTION
22	Art.	55A.356.	INSPECTION AND DISPOSITION OF COURT'S
23			RECORDS CONCERNING EXPUNCTION
24	Art.	55A.357.	RETENTION OF FINANCIAL TRANSACTION
25			RECORDS
26		St	JBCHAPTER I. EFFECT OF EXPUNCTION ORDER
27	Art.	55A.401.	EFFECT OF FINAL EXPUNCTION ORDER
28	Art.	55A.402.	OFFENSE FOR VIOLATION OF EXPUNCTION
29			ORDER
30		Ç	SUBCHAPTER J. NOTICE OF EXPUNCTION LAW
31	Art.	55A.451.	NOTICE OF EXPUNCTION LAW TO PERSONS
32			RELEASED FOLLOWING ARREST

Т	CHAPTER SSA. EXPUNCTION OF CRIMINAL RECORDS
2	SUBCHAPTER A. MANDATORY EXPUNCTION
3	Revised Law
4	Art. 55A.001. APPLICABILITY OF SUBCHAPTER. This subchapter
5	applies to a person who has been placed under a custodial or
6	noncustodial arrest for commission of a felony or misdemeanor.
7	(Code Crim. Proc., Art. 55.01(a) (part).)
8	Source Law
9 L0 L1 L2	Art. 55.01. RIGHT TO EXPUNCTION. (a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor [is entitled]
L3	Revised Law
L4	Art. 55A.002. FOLLOWING TRIAL COURT ACQUITTAL. A person to
L5	whom this subchapter applies is entitled to have all records and
L6	files relating to the arrest expunged if the person is:
L7	(1) tried for the offense for which the person was
L8	arrested; and
L9	(2) acquitted by the trial court, except as provided
20	by Article 55A.151. (Code Crim. Proc., Art. 55.01(a) (part).)
21	Source Law
22 23 24 25 26 27 28 29 31	Art. 55.01. RIGHT TO EXPUNCTION. (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);
32	Revised Law
33	Art. 55A.003. PARDON FOR ACTUAL INNOCENCE. A person to whom
34	this subchapter applies is entitled to have all records and files
35	relating to the arrest expunged if:
36	(1) the person is:
37	(A) tried for and convicted of the offense for
88	which the person was arrested; and
39	(B) subsequently pardoned or otherwise granted
1 🔿	relief on the basis of actual innocence with respect to that

1 offense; and

2.7

2.8

- 2 (2) the applicable pardon or court order clearly
- 3 indicates on its face that the pardon or order was granted or issued
- 4 on the basis of the person's actual innocence. (Code Crim. Proc.,
- 5 Art. 55.01(a) (part).)

6 Source Law

Art. 55.01. RIGHT TO EXPUNCTION. (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:

(B) convicted and subsequently:

(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

Revisor's Note

- (1) Article 55.01(a)(1)(B)(ii), Code of Criminal Procedure, provides that an arrested person is entitled to have all records and files relating to the arrest expunged if the person is tried for the offense and "convicted and subsequently . . . pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense." It is clear from the context that the offense for which the person is convicted and subsequently pardoned or granted relief is the same offense for which the person was arrested. The revised law is drafted accordingly.
- (2) Article 55.01(a)(1)(B)(ii), Code of Criminal Procedure, refers to a pardon or order being "rendered." The revised law substitutes "issued" for "rendered" because in this context the terms are synonymous and "issued" is the more commonly used term.

Revised Law
Art. 55A.004. PARDON FOR REASON OTHER THAN ACTUAL
INNOCENCE. A person to whom this subchapter applies is entitled to
have all records and files relating to the arrest expunged if the
person is:
(1) tried for and convicted of the offense for which
the person was arrested; and
(2) subsequently pardoned for that offense for a
reason other than that described by Article 55A.003. (Code Crim.
Proc., Art. 55.01(a) (part).)
Source Law
Art. 55.01. RIGHT TO EXPUNCTION. (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: (B) convicted and subsequently: (i) pardoned for a reason other than that described by Subparagraph (ii); or
Revisor's Note
Article 55.01(a)(1)(B)(i), Code of Criminal
Procedure, provides that an arrested person is
entitled to have all records and files relating to the
arrest expunged if the person is tried for the offense
and "convicted and subsequently pardoned" for a
reason other than actual innocence. For the reason
stated in Revisor's Note (1) to Article 55A.003, the
revised law clarifies that the offense for which the
person is convicted and subsequently pardoned is the
same offense for which the person was arrested.

35 Revised Law

- Art. 55A.005. UNLAWFUL CARRYING OF HANDGUN. A person to whom this subchapter applies is entitled to have all records and files relating to the arrest expunged if:
- 39 (1) the person was tried for and convicted of the

- 1 offense for which the person was arrested; and
- 2 (2) the offense was committed before September 1,
- 3 2021, under Section 46.02(a), Penal Code, as that section existed
- 4 before that date. (Code Crim. Proc., Art. 55.01(a) (part).)

5 <u>Source Law</u>

6

7 8

9

10 11

12

13

14

15

16 17

18

2.0

21

22

23

24

25

26

27

28

29

30

31

32

Art. 55.01. RIGHT TO EXPUNCTION. (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:

(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

. . .

19 <u>Revisor's Note</u>

55.01(a)(1)(C), Code Article of Criminal Procedure, provides that a person is entitled to have all records and files relating to an arrest expunged if "the person is tried for the offense for which the person was arrested and is . . . convicted of an offense committed before September 1, 2021, under Section 46.02(a), Penal Code, as that section existed before that date." It is clear from the context that for a person to be entitled to an expunction under this provision, the person must have been arrested for and convicted of an offense committed before September 1, 2021, under Section 46.02(a), Penal Code, and the revised law is drafted accordingly.

33 Revised Law

Art. 55A.006. MISTAKEN IDENTITY. 34 Notwithstanding 35 limitation provided by Article 55A.001, a person is entitled to 36 obtain the expunction of any information that identifies the person, including the person's name, address, date of birth, 37 38 driver's license number, and social security number, contained in records and files relating to the person's arrest or the arrest of 39 40 another person if:

1	(1) the expunction of identifying information is
2	sought with respect to the arrest of the person asserting the
3	entitlement and the person was arrested solely as a result of
4	identifying information that was inaccurate due to a clerical
5	error; or
6	(2) the expunction of identifying information is
7	sought with respect to the arrest of a person other than the person
8	asserting the entitlement and:
9	(A) the information identifying the person
10	asserting the entitlement was falsely given by the arrested person
11	as the arrested person's identifying information without the
12	consent of the person asserting the entitlement; and
13	(B) the only reason why the identifying
14	information of the person asserting the entitlement is contained in
15	the applicable arrest records and files is the deception of the
16	arrested person. (Code Crim. Proc., Art. 55.01(d); New.)
17	Source Law
18 19 20 21 22 23	(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:

- 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:
- the information identifying the (A) 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.

Revisor's Note

Article 55.01(a), Code of Criminal Procedure, contains a limitation regarding a person's entitlement to an expunction. The limitation is revised in this

24

25

26

27 28

29

30

31

32

33

34

35 36 37

43

44

45

1 subchapter as Article 55A.001 and applies to the remaining portion of Article 55.01(a) that is revised 2 3 in this subchapter (see Articles 55A.002 through 4 55A.005). 55.01(d), Article Code of Criminal Procedure, does not contain the limiting language 5 found in Article 55.01(a), and the revised law adds 6 "[n]otwithstanding the limitation provided by Article 7 55A.001" to clarify that the limitation does not apply 8 to the revision of Article 55.01(d). 9 SUBCHAPTER B. SPECIAL CIRCUMSTANCES REQUIRING MANDATORY 10 EXPUNCTION 11 12 Revised Law Art. 55A.051. APPLICABILITY OF SUBCHAPTER. This subchapter 13 applies to a person who has been placed under a custodial or 14 noncustodial arrest for commission of a felony or misdemeanor if: 15 16 (1)the person has been released; 17 the charge, if any, has not resulted in a final conviction and is no longer pending; and 18 19 (3) there was no court-ordered community supervision under Chapter 42A for the offense, other than for a Class C 20 misdemeanor. (Code Crim. Proc., Art. 55.01(a) (part).) 21 22 Source Law 23 RIGHT TO EXPUNCTION. (a) A person Art. 55.01. who has been placed under a custodial or noncustodial 24 25

for arrest commission of either a felony misdemeanor [is entitled to have all records and files relating to the arrest expunged] if:

(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,

35 Revised Law

Art. 55A.052. INDICTMENT OR INFORMATION NOT PRESENTED. 36 37 A person to whom this subchapter applies is entitled to have all 38 records and files relating to the arrest expunged if an indictment or information charging the person with the commission of a 39

26

27

28 29

30

31 32 33

- 1 misdemeanor offense based on the person's arrest or charging the
- 2 person with the commission of any felony offense arising out of the
- 3 same transaction for which the person was arrested has not been
- 4 presented against the person at any time following the arrest and
- 5 if:
- 6 (1) at least 180 days have elapsed from the date of
- 7 arrest if the arrest for which the expunction was sought was for an
- 8 offense punishable as a Class C misdemeanor and there was no felony
- 9 charge arising out of the same transaction for which the person was
- 10 arrested;
- 11 (2) at least one year has elapsed from the date of
- 12 arrest if the arrest for which the expunction was sought was for an
- 13 offense punishable as a Class B or A misdemeanor and there was no
- 14 felony charge arising out of the same transaction for which the
- 15 person was arrested;
- 16 (3) at least three years have elapsed from the date of
- 17 arrest if the arrest for which the expunction was sought was for an
- 18 offense punishable as a felony or there was a felony charge arising
- 19 out of the same transaction for which the person was arrested; or
- 20 (4) the attorney representing the state certifies that
- 21 the applicable arrest records and files are not needed for use in
- 22 any criminal investigation or prosecution, including an
- 23 investigation or prosecution of another person.
- 24 (b) A person is entitled to an expunction under this article
- 25 regardless of whether any statute of limitations exists for the
- 26 offense and whether any limitations period for the offense has
- 27 expired. (Code Crim. Proc., Art. 55.01(a) (part).)

28 <u>Source Law</u>

- Art. 55.01. RIGHT TO EXPUNCTION. (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:
- [(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,]

29

30

31

32

33 34

35 36

37

38

1 provided that: (A) regardless of whether any statute 3 of limitations exists for the offense and whether any limitations period for the offense has expired, 5 indictment or information charging the person with the 6 7 commission of a misdemeanor offense based on the person's arrest or charging the person with 8 commission of any felony offense arising out of the same transaction for which the person was arrested: 9 10 presented (i) has not been against the person at any time following the arrest, 11 12 and: 13 (a) at least 180 days have 14 elapsed from the date of arrest if the arrest for which 15 expunction was sought was for offense an punishable as a Class C misdemeanor and if there was no 16 17 felony charge arising out of the same transaction for 18 which the person was arrested; 19 (b) at least one year has elapsed from the date of arrest if the arrest for which 20 expunction 21 was for was sought offense an 22 punishable as a Class B or A misdemeanor and if there 23 felony charge the was no arising out of 24 transaction for which the person was arrested; 25 (c) at least three years 26 have elapsed from the date of arrest if the arrest for 27 which the expunction was sought was for an offense punishable as a felony or if there was a felony charge 28 29 arising out of the same transaction for which the 30 person was arrested; or 31 (d) the attornev 32 representing the state certifies that the applicable 33 arrest records and files are not needed for use in any 34 criminal investigation or prosecution, including an 35 investigation or prosecution of another person; or 36

37 Revised Law

38 Art. 55A.053. INDICTMENT OR INFORMATION DISMISSED $\cap R$ 39 QUASHED. (a) A person to whom this subchapter applies is entitled

40 to have all records and files relating to the arrest expunged if:

an indictment or information charging the person 41 with the commission of a misdemeanor offense based on the person's 42 arrest or charging the person with the commission of any felony 43 44 offense arising out of the same transaction for which the person was 45 arrested, when presented at any time following the arrest, was

46 dismissed or quashed; and

- 47 (2) the court finds that the indictment or information 48 was dismissed or quashed because:
- 49 the person completed a veterans treatment (A) 50 court program created under Chapter 124, Government Code, or former law, subject to Subsection (b); 51
- 52 the person completed a mental health court

- 1 program created under Chapter 125, Government Code, or former law,
- 2 subject to Subsection (c);
- 3 (C) the person completed a pretrial intervention
- 4 program authorized under Section 76.011, Government Code, other
- 5 than a program described by Paragraph (A) or (B);
- 6 (D) the presentment of the indictment or
- 7 information was made because of mistake, false information, or
- 8 other similar reason indicating absence of probable cause at the
- 9 time of the dismissal to believe the person committed the offense;
- 10 or
- 11 (E) the indictment or information was void.
- 12 (b) A person is eligible under Subsection (a)(2)(A) for an
- 13 expunction of arrest records and files only if the person:
- 14 (1) has not previously received an expunction under
- 15 that paragraph; and
- 16 (2) submits to the court an affidavit attesting to
- 17 that fact.
- 18 (c) A person is eligible under Subsection (a)(2)(B) for an
- 19 expunction of arrest records and files only if the person:
- 20 (1) has not previously received an expunction under
- 21 that paragraph; and
- 22 (2) submits to the court an affidavit attesting to
- 23 that fact.
- 24 (d) A person is entitled to an expunction under this article
- 25 regardless of whether any statute of limitations exists for the
- 26 offense and whether any limitations period for the offense has
- 27 expired. (Code Crim. Proc., Arts. 55.01(a) (part), (a-3), (a-4).)

28 <u>Source Law</u>

- RIGHT TO EXPUNCTION. 29 Art. 55.01. (a) A person 30 [who has been placed under a custodial or noncustodial of 31 commission felony arrest for either a 32 misdemeanor] is entitled to have all records and files relating to the arrest expunged if: 33 34
- [(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,]

1 provided that: (A) regardless of whether any statute 3 of limitations exists for the offense and whether any limitations period for the offense has expired, an 5 indictment or information charging the person with the commission of a misdemeanor offense based on the 6 7 person's arrest or charging the person with 8 commission of any felony offense arising out of the 9 same transaction for which the person was arrested: 10 (ii) 11 if presented at any time 12 following the arrest, was dismissed or quashed, and 13 the court finds that the indictment or information was 14 dismissed or quashed because: 15 (a) the person completed a veterans treatment court program created under Chapter 16 124, Government Code, 17 or former law, subject to 18 Subsection (a-3); 19 (b) the person completed a 20 mental health court program created under Chapter 125, 21 Government Code, or former law, subject to Subsection 22 (a-4);23 the person completed a (c) 24 pretrial program intervention authorized Section 76.011, Government Code, other than a veterans 25 treatment court program created under Chapter 124, 26 27 Government Code, or former law, or a mental health 28 court program created under Chapter 125, Government 29 Code, or former law; 30 (d) the presentment been made because of mistake, false information, or 31 32 other similar reason indicating absence of probable 33 cause at the time of the dismissal to believe the 34 person committed the offense; or 35 (e) the indictment or 36 information was void; or 37 A person is eligible under Subsection 38 (a-3) 39 (a)(2)(A)(ii)(a) for an expunction of arrest records 40 and files only if: 41 (1)the person has not previously received 42 an expunction of arrest records and files under that 43 sub-subparagraph; and (2) the person submits to the court an 44 affidavit attesting to that fact. 45 46 (a-4) A person is eligible under Subsection (a)(2)(A)(ii)(\dot{b}) for an expunction of arrest records 47 48 and files only if: 49 (1) the person has not previously received 50 an expunction of arrest records and files under that 51 sub-subparagraph; and the person submits to the court an 52 (2) 53 affidavit attesting to that fact. 54 Revised Law 55 Art. 55A.054. EXPIRATION OF LIMITATIONS PERIOD. A person 56 to whom this subchapter applies is entitled to have all records and 57 files relating to the arrest expunged if prosecution of the person 58 for the offense for which the person was arrested is no longer

Proc., Art. 55.01(a) (part).)

59

60

possible because the limitations period has expired. (Code Crim.

1	Source Law
2 3 4 5 6 7	Art. 55.01. RIGHT TO EXPUNCTION. (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:
8 9 10 11 12 13 14 15	[(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:
15 16 17	(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.
18	SUBCHAPTER C. DISCRETIONARY EXPUNCTION
19	Revised Law
20	Art. 55A.101. APPELLATE COURT ACQUITTAL OR RECOMMENDATION
21	OF ATTORNEY REPRESENTING STATE. (a) Except as provided by Article
22	55A.151 and subject to Subsection (b), a district court, a justice
23	court, or a municipal court of record may expunge all records and
24	files relating to the arrest of a person if:
25	(1) the person is:
26	(A) tried for the offense for which the person
27	was arrested;
28	(B) convicted of the offense; and
29	(C) acquitted by the court of criminal appeals
30	or, if the period for granting a petition for discretionary review
31	has expired, by a court of appeals; or
32	(2) an office of the attorney representing the state
33	authorized by law to prosecute the offense for which the person was
34	arrested recommends the expunction to the court before the person
35	is tried for the offense, regardless of whether an indictment or
36	information has been presented against the person with respect to
37	the offense.
38	(b) A justice court or a municipal court of record may only
39	expunge records and files under Subsection (a) that relate to the
40	arrest of a person for an offense punishable by fine only. (Code

41 Crim. Proc., Arts. 55.01(b), (b-1).)

Source Law

(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.
- (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.

Revisor's Note

Article 55.01(b), Code of Criminal Procedure, provides that a person eligible for expunction under that subsection may seek an expunction "under the procedure established under Article 55.02." The revised law omits the quoted language as unnecessary because the procedures under that article, revised in Subchapters E and F of this chapter, apply on their own terms.

SUBCHAPTER D. EXPUNCTION PROHIBITED

Revised Law

Art. 55A.151. CONVICTION OR POTENTIAL PROSECUTION ARISING FROM SAME CRIMINAL EPISODE. 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. (Code Crim. Proc., Art.

1 55.01(c).) 2 Source Law 3 A court may not order the expunction of records and files relating to an arrest for an offense 4 5 for which a person is subsequently acquitted, whether 6 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 7 8 defined by Section 3.01, Penal Code, and the person was 9 10 convicted of or remains subject to prosecution for at least one other offense occurring during the criminal 11 12 episode. 13 Revised Law 14 Art. 55A.152. DRIVER'S LICENSE SUSPENSION OR REVOCATION. 15 Records relating to the suspension or revocation of a driver's 16 license, permit, or privilege to operate a motor vehicle may not be 17 expunged under this chapter except as provided by Section 524.015 18 or 724.048, Transportation Code. (Code Crim. Proc., Art. 55.06.) 19 Source Law 20 Art. 55.06. LICENSE SUSPENSIONS 21 REVOCATIONS. Records relating to the suspension or 22 revocation of a driver's license, permit, or privilege 23 to operate a motor vehicle may not be expunged under 24 this chapter except as provided in Section 524.015, Transportation Code, or Section 724.048 of that code. 25 26 Revised Law Art. 55A.153. VIOLATION OF 27 ARREST FOR COMMIINTTYSUPERVISION. Notwithstanding any provision of Subchapter A, B, or 28

29 C, a person may not expunge records and files relating to an arrest

that occurs pursuant to a warrant issued under Article 42A.751(b). 30

(Code Crim. Proc., Art. 55.01(a-1).) 31

32 Source Law

33 (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). 34 35 36

37 Revisor's Note

> Article 55.01(a-1), Code of Criminal Procedure, provides that notwithstanding any other provision of that article, records and files of certain arrests may not be expunged. The provisions of Article 55.01 specifying when a person is entitled to or eligible for

38

39

40

41

an expunction are revised as Subchapters A, B, and C of

2 this chapter, and the revised law is drafted

3 accordingly.

4 Revised Law

5 Art. 55A.154. CERTAIN PERSONS ABSCONDING AFTER ARREST.

6 Notwithstanding any provision of Subchapter A, B, or C, a person who

7 intentionally or knowingly absconds from the jurisdiction after

8 being released under Chapter 17 following an arrest is not eligible

9 under Article 55A.052(a)(1), (2), or (3) or 55A.054 for an

10 expunction of the records and files relating to that arrest. (Code

11 Crim. Proc., Art. 55.01(a-2).)

13

14

15 16 17

18 19

20

21

2.2

23

24

25

26

27

28

12 <u>Source Law</u>

(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.

Revisor's Note

Article 55.01(a-2), Code of Criminal Procedure, provides that notwithstanding any other provision of that article, a person who absconds from the jurisdiction after being released on bail is not eligible for an expunction under certain provisions. The revised law adds a reference to Subchapters A, B, and C for the reason stated in the revisor's note to Article 55A.153.

29 SUBCHAPTER E. PROCEDURES FOR AUTOMATIC ENTRY OF EXPUNCTION ORDER

30 Revised Law

Art. 55A.201. TRIAL COURT ACQUITTAL. (a) At the request of the acquitted person and after notice to the state, or at the request of the attorney representing the state with the consent of the acquitted person, an expunction order shall be entered, not later than the 30th day after the date of the acquittal, for a person entitled to expunction under Article 55A.002 by:

37 (1) the trial court presiding over the case in which

- 1 the person was acquitted, if the court is:
- 2 (A) a district court;
- 3 (B) a justice court; or
- 4 (C) a municipal court of record; or
- 5 (2) a district court in the county in which the trial
- 6 court is located.
- 7 (b) On acquittal, the trial court shall advise the acquitted
- 8 person of the right to expunction.
- 9 (c) The party requesting the expunction order shall provide
- 10 to the court all of the information required in a petition for
- 11 expunction under Article 55A.253.
- 12 (d) An expunction order under this article shall be prepared
- 13 for the court's signature by:
- 14 (1) the attorney for the acquitted person in the case
- 15 in which the person was acquitted, if the acquitted person was
- 16 represented by an attorney; or
- 17 (2) the attorney representing the state, if the person
- 18 was not represented by an attorney or if the attorney representing
- 19 the state requested the order. (Code Crim. Proc., Art. 55.02, Sec.
- 20 1.)

31 32 33

34

35

36 37 38

39

40 41

42 43

44

21 <u>Source Law</u>

22 Art. 55.02. PROCEDURE FOR EXPUNCTION.
23 Sec. 1. At the request of the acquit

Sec. 1. At the request of the acquitted person and after notice to the state, or at the request of the state with the attorney for the consent of 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. acquittal, the trial court shall advise the acquitted The person of the right to expunction. 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.

Revisor's Note

Section 1, Article 55.02, Code of Criminal 2 3 Procedure, refers to an "attorney for the state." 4 Throughout this chapter, the revised law substitutes "attorney representing the state" for "attorney for 5 the state" and "prosecuting attorney" because the 6 terms are synonymous and "attorney representing the 7 8 state" is more commonly used in the Code of Criminal Procedure. 9

10 Revised Law

- 11 Art. 55A.202. PARDON FOR ACTUAL INNOCENCE. (a) In a case in 12 which a person is entitled to expunction under Article 55A.003, an 13 expunction order shall be entered, not later than the 30th day after 14 the date the court receives notice of the applicable pardon or other 15 grant of relief, for the person by:
- 16 (1) the trial court presiding over the case, if the 17 court is:
- 18 (A) a district court;
- 19 (B) a justice court; or
- 20 (C) a municipal court of record; or
- 21 (2) a district court in the county in which the trial 22 court is located.
- (b) The person described by Subsection (a) shall provide to the court all of the information required in a petition for expunction under Article 55A.253. (Code Crim. Proc., Art. 55.02,
- 26 Sec. 1a(a).)

28

29

30 31

32

33 34 35

36

37

38

39 40

1

27 Source Law

(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 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 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).

1

3

4

5

6

7

8

9

10

11

2 <u>Revisor's Note</u>

Section 1a(a), Article 55.02, Code of Criminal Procedure, states that an expunction order shall be entered when 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." The revised law omits the quoted language as unnecessary because it repeats the substance of the entitlement under Article 55.01(a)(1)(B)(ii), which is revised as Article 55A.003 of this chapter.

12 Revised Law

- 13 Art. 55A.203. CERTAIN SPECIALTY COURT PROGRAMS. (a) A
 14 trial court that is a district court or a district court in the
 15 county in which the trial court is located may, with the consent of
 16 the attorney representing the state, enter an expunction order for
 17 a person entitled to expunction under Article 55A.053(a)(2)(A) not
 18 later than the 30th day after the date the court, as applicable:
- (1) dismisses the case following the person's successful completion of a veterans treatment court program created under Chapter 124, Government Code, or former law; or
- 22 (2) receives the information regarding the dismissal.
- (b) A trial court that 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 expunction order for a person entitled to expunction under Article 55A.053(a)(2)(B) not later than the 30th day after the date the court, as applicable:
- (1) dismisses the case following the person's successful completion of a mental health court program created under Chapter 125, Government Code, or former law; or
- 32 (2) receives the information regarding the dismissal.
- 33 (c) Notwithstanding any other law, a court that enters an 34 expunction order under this article may not charge any fee or assess

- any cost for the expunction. (Code Crim. Proc., Art. 55.02, Secs. 1
- 2 1a(a-1), (a-2).)

5 6 7

8 9

10 11 12

13 14

15 16

17 18

19

20

21

22

23 24

25 26

27 28

29

30

31

32 33

3 Source Law

- (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.
- A trial court dismissing a case following (a-2) 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 Notwithstanding any other law, a court applicable. an order for expunction under that enters this subsection may not charge any fee or assess any cost for the expunction.

34 Revised Law

Art. 55A.204. DUTIES **ATTORNEY** REPRESENTING STATE 35 OF

36 REGARDING EXPUNCTION ORDER. The attorney representing the state

37 shall prepare an expunction order under Article 55A.202 or 55A.203

- for the court's signature and notify the Texas Department 38
- 39 Criminal Justice if the person who is the subject of the order is in
- 40 the custody of the department. (Code Crim. Proc., Art. 55.02, Sec.
- 41 1a(b).)

44

42 Source Law

- 43 (b) The attorney for the state shall:
 - (1) prepare an expunction order under this

45

section for the court's signature; and (2) notify the Texas Texas 46 Department Criminal Justice if the person is in the custody of the 47 48 department.

49 Revisor's Note

Section 1a(b), Article 55.02, Code of Criminal 50

51 Procedure, requires the attorney representing the

1 state to prepare an expunction order under that section and to notify the Texas Department of Criminal 2 3 Justice if the person is in the custody of the The provisions of Section 1a relating to 4 department. entering an expunction order are revised as Articles 5 55A.202 and 55A.203 of this chapter, and the revised 6 law is drafted accordingly. The revised law adds "who 7 8 is the subject of the order" because it is clear from 9 the context that the notice given to the department concerns the person who is the subject of 10 expunction order under Section 1a. 11

12 <u>Revised Law</u>

13 Art. 55A.205. REQUIRED CONTENT OF EXPUNCTION ORDER. In an 14 expunction order entered under Article 55A.202 or 55A.203, the 15 court shall:

- (1) provide 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; and
- 20 (2) require that:
- (A) the Texas Department of Criminal Justice send 22 to the court any documents delivered to the department under 23 Section 8(a), Article 42.09; and
- (B) the Department of Public Safety and the Texas
 Department of Criminal Justice delete or redact, as appropriate,
 from their public records all index references to the records and
 files that are subject to the expunction order. (Code Crim. Proc.,

28 Art. 55.02, Sec. 1a(c).)

29 <u>Source Law</u>

30 The court shall include in an expunction order under this section a listing of each official, 31 agency, or other entity of this state or political 32 subdivision of this state and each private entity that 33 34 there is reason to believe has any record or file that is subject to the order. The court shall also provide 35 in an expunction order under this section that: 36 Texas 37 Criminal (1)the Department of 38 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.

Revisor's Note

Section 1a(c), Article 55.02, Code of Criminal Procedure, requires the court to include certain information and directives in an expunction order under that section. The provisions of Section 1a requiring or permitting a court to enter an expunction order are revised as Articles 55A.202 and 55A.203 of this chapter, and the revised law is drafted accordingly.

Revised Law

Art. 55A.206. REQUIRED RETENTION OF CERTAIN DOCUMENTS BY
COURT. The court shall retain any documents sent to the court under
Article 55A.205(2)(A) until the limitations period has expired for
any civil case or proceeding relating to the wrongful imprisonment
of the person who is the subject of the expunction order. (Code
Crim. Proc., Art. 55.02, Sec. 1a(d).)

Source Law

(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.

30 SUBCHAPTER F. GENERAL PROCEDURES FOR SEEKING ENTRY OF EXPUNCTION

31 ORDER

32 Revised Law

Art. 55A.251. FILING OF PETITION. A person who is entitled to expunction of records and files under Article 55A.002, 55A.004, or 55A.005 or Subchapter B, or a person who is eligible for expunction of records and files under Article 55A.101, may, subject to Article 55A.252, file an ex parte petition for expunction in a district court for the county in which:

(1) the petitioner was arrested; or

1

2

3

8

9

10

11

12

13

14

15

16

17

24

(2) the offense was alleged to have occurred. 1 (Code

2 Crim. Proc., Art. 55.02, Sec. 2(a); New.)

3 Source Law

who Sec. 2. (a) Α person is entitled of expunction 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

alleged to (2) the offense was have

occurred.

4

5

6

7

8

9 10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

34

Revisor's Note

Section 2(a), Article 55.02, Code of Criminal Procedure, provides that a person may file an ex parte petition for expunction in certain district courts. The revised law adds "subject to Article 55A.252" for the convenience of the reader because Section 2(a-1) of Article 55.02, revised as Article 55A.252 of this chapter, provides that if the arrest for which expunction is sought is an offense punishable as a fine only, the person may file the ex parte petition in certain justice or municipal courts.

Revised Law

26 Art. 55A.252. FILING CERTAIN PETITIONS ΙN JUSTICE OR MUNICIPAL COURT. If the arrest for which expunction is sought is 27 for an offense punishable by fine only, a person who is entitled to 2.8 expunction of records and files under Article 55A.002, 55A.003, 29 30 55A.004, or 55A.005 or Subchapter B, or a person who is eligible for 31 expunction of records and files under Article 55A.101(a) may file an ex parte petition for expunction in a justice court or a 32 municipal court of record in the county in which: 33

- the petitioner was arrested; or (1)
- the offense was alleged to have occurred. 35 (Code
- 36 Crim. Proc., Art. 55.02, Sec. 2(a-1).)

37 Source Law

(a-1)If the arrest for which expunction is 38 sought is for an offense punishable by fine only, a 39

```
1
          person who is entitled to expunction of records and
2
          files under Article 55.01(a) or a person who
3
          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
5
6
          record in the county in which:
7
                      (1)
                           the petitioner was arrested; or
8
                      (2)
                           the
                                 offense
                                          was
                                                 alleged to
                                                               have
9
          occurred.
10
                                 Revised Law
11
          Art. 55A.253.
                           CONTENTS OF PETITION. An ex parte petition
12
    filed under Article 55A.251, 55A.252, or 55A.257 must be verified
    and must include, with respect to the person who is the subject of
13
14
    the petition, the following or an explanation for why one or more of
    the following is not included:
15
                (1)
16
                     the person's:
17
                           full name;
                      (A)
18
                      (B)
                           sex;
19
                      (C)
                           race;
                           date of birth;
2.0
                      (D)
21
                      (E)
                           driver's license number;
22
                           social security number; and
                      (F)
23
                      (G)
                           address at the time of the arrest;
24
                (2)
                     the offense charged;
                     the date the offense charged was alleged to have
25
                (3)
    been committed;
26
27
                (4)
                     the date of arrest;
                (5)
                     the name of the county of arrest and if the arrest
2.8
29
    occurred in a municipality, the name of the municipality;
30
                (6)
                     the name of the arresting agency;
                     the case number and court of offense; and
31
                (7)
32
                     together with the applicable physical or e-mail
    addresses, a list of all:
33
34
                           law enforcement agencies, jails or other
    detention facilities, magistrates, courts, attorneys representing
35
36
    the state, correctional facilities, central state depositories of
37
    criminal records, and other officials or agencies or other entities
```

of this state or of any political subdivision of this state;

1	(B) central federal depositories of criminal
2	records that the person who is the subject of the petition has
3	reason to believe have records or files that are subject to
4	expunction; and
5	(C) private entities that compile and
6	disseminate for compensation criminal history record information
7	that the person who is the subject of the petition has reason to
8	believe have information related to records or files that are
9	subject to expunction. (Code Crim. Proc., Art. 55.02, Secs. 2(b),
10	(f).)
11	Source Law
1231451678901234567890123345678901234444444455555555555555555555555555555	(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 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.
54	(f) An ex parte petition filed under Subsection
55	(e) must be verified and must include the following or

1 an explanation for why one or more of the following is 2 not included: 3 (1)the person's: (A) full name; 5 (B) sex; 6 7 (C) race; (D) date of birth; 8 (E) driver's license number; 9 (F) social security number; and 10 (G) address at the time of the 11 arrest; 12 (2) the offense charged against the 13 person; (3) the date the offense charged against the person was alleged to have been committed; 14 15 the date the person was arrested; 16 (4)17 (5)the name of the county where the person 18 the was arrested and if arrest occurred municipality, the name of the municipality; 19 20 (6) the name of the agency that arrested 21 the person; (7)the case number and court of offense; 22 23 and 24 (8) together with the applicable physical 25 or e-mail addresses, a list of all: 26 (A) law enforcement agencies, jails 27 or other detention facilities, magistrates, courts, 28 correctional facilities, prosecuting attorneys, central state depositories of criminal records, and other officials or agencies or other entities of this 29 30 state or of any political subdivision of this state; 31 32 (B) central federal depositories of 33 criminal records that the person has reason to believe 34 have records or files that are subject to expunction; 35 and 36 private entities that compile and (C) 37 disseminate for compensation criminal history record 38 information that the person has reason to believe have 39 information relating to records or files that are 40 subject to expunction. 41 Revisor's Note 42 (1)Section 2(b), Article 55.02, Code of Criminal Procedure, specifies the information that 43 44 included "petition" must be in а filed 45 Subsection (a) or (a-1) of that section. The revised law substitutes "ex parte petition" for "petition" for 46 47 consistency with the terminology used in Sections 2(a) and (a-1) of that article, revised as Articles 55A.251 48 49 and 55A.252 of this chapter. 50 (2) Section 2(b), Article 55.02, Code ofCriminal Procedure, specifies the information that

51

52

53

54

must be included in a petition for expunction filed by

a petitioner who is entitled to or eligible for the

expunction. Section 2(f), Article 55.02, Code of

Criminal Procedure, specifies the information that must be included in a petition for expunction filed under Section 2(e) of that article, revised as Article 55A.257 of this chapter, by the Department of Public Safety on behalf of a person who is entitled to or eligible for the expunction. For the convenience of the reader, the revised law only lists the information that must be included in a petition once as the content of the petition is the same in each scenario and uses the phrase "person who is the subject of the petition" to describe both a petitioner and a person on whose behalf a petition is filed.

13 Revised Law

Art. 55A.254. HEARING; NOTICE. (a) The court shall set a hearing on an ex parte petition for expunction not earlier than 30 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
- 20 (2) secure electronic mail, electronic transmission,
- 21 or facsimile transmission.

1

2

3

4

5

6

7

8

9

10

11

12

19

- (b) An entity described by Subsection (a) may be represented by the attorney responsible for providing the entity with legal
- 24 representation in other matters.
- 25 (c) Any returned receipts received by the clerk from notices
- 26 of the hearing shall be maintained in the file on the proceedings
- 27 under Article 55A.356(b). (Code Crim. Proc., Art. 55.02, Secs.
- 28 2(c), (c-1); Sec. 3(d) (part).)

29 <u>Source Law</u>

30 [Sec. 2] 31 (c)

- 31 (c) The court shall set a hearing on the matter 32 no sooner than thirty days from the filing of the 33 petition and shall give to each official or agency or 34 other governmental entity named in the petition 35 reasonable notice of the hearing by:
- 36 (1) certified mail, return receipt
- 37 requested; or
- 38 (2) secure electronic mail, electronic

transmission, or facsimile transmission.

(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.

[Sec. 3]

1

2

3

5

6

7

8 9 10

11

12

13

14

15

16

17

18

19

2.0

21

22

2.3

24

2.5

26

27

2.8

(d) Any returned receipts received by the clerk from notices of the hearing and . . . shall be maintained in the file on the proceedings under this chapter.

Revisor's Note

- (1) Section 2(c), Article 55.02, Code of Criminal Procedure, refers to a hearing on "the matter." It is clear from the context that this is a reference to the ex parte petitions for expunction that may be filed under Sections 2(a) and (a-1), revised as Articles 55A.251 and 55A.252 of this chapter. The revised law is drafted accordingly.
- (2) Section 3(d), Article 55.02, of Criminal Procedure, refers to "the file on proceedings under this chapter." The provision relating to a court's records concerning expunction proceedings is in Section 5(c), Article 55.02, Code of Criminal Procedure, revised in relevant part Article 55A.356(b) of this chapter, and the revised substitutes a cross-reference law t o Article 55A.356(b) for the reference to "chapter" for the convenience of the reader.

29 Revised Law

Art. 55A.255. ENTRY OF EXPUNCTION ORDER. If the court finds that the person who is the subject of an exparte petition filed under Article 55A.251, 55A.252, or 55A.257 is entitled to expunction of any records and files that are the subject of the petition, the court shall enter an order directing expunction. (Code Crim. Proc., Art. 55.02, Sec. 2(d).)

36 Source Law

37 (d) If the court finds that the petitioner, or a 38 person for whom an ex parte petition is filed under 39 Subsection (e), is entitled to expunction of any 40 records and files that are the subject of the petition,

Revisor's Note 2 Section 2(d), Article 55.02, Code of Criminal 3 Procedure, refers to a "petitioner, or a person for 4 5 whom an ex parte petition is filed." The revised law 6 substitutes "person who is the subject of an ex parte petition" for the quoted language for clarity and 7 8 consistency with the other references in this chapter. Revised Law 9 Art. 55A.256. APPLICATION FOR EXPUNCTION BASED ON MISTAKEN 10 (a) A person who is entitled to the expunction of 11 12 information contained in records and files under Article 55A.006 may file an application for expunction with the attorney 13 representing the state in the prosecution of felonies in the county 14 15 in which the person resides. The application must be verified, include authenticated 16 17 fingerprint records of the applicant, and include the following or an explanation for why one or more of the following is not included: 18 19 (1) the applicant's: full name; 20 (A) 21 (B) sex; 22 (C) race; 23 (D) date of birth; 24 (E) driver's license number; social security number; and 25 (F) 26 (G) address at the time of the applicable arrest; the following information regarding the arrest: 27 (2) the date of arrest; 28 (A) the offense charged against the person 29 (B) 30 arrested; 31 (C) the name of the county or municipality in 32 which the arrest occurred; and 33 the name of the arresting agency; and

it shall enter an order directing expunction.

34

1

a statement, as appropriate, that the applicant:

- 1 (A) was arrested solely as a result of
- 2 identifying information that was inaccurate due to a clerical
- 3 error; or
- 4 (B) is not the person arrested and for whom the
- 5 arrest records and files were created and did not give the arrested
- 6 person consent to falsely identify himself or herself as the
- 7 applicant.
- 8 (c) After verifying the allegations in the application, the
- 9 attorney representing the state shall:
- 10 (1) include on the application information regarding
- 11 the arrest that was requested of the applicant but was unknown by
- 12 the applicant;
- 13 (2) forward a copy of the application to the district
- 14 court for the county;
- 15 (3) together with the applicable physical or e-mail
- 16 addresses, attach to the copy a list of all:
- 17 (A) law enforcement agencies, jails or other
- 18 detention facilities, magistrates, courts, attorneys representing
- 19 the state, correctional facilities, central state depositories of
- 20 criminal records, and other officials or agencies or other entities
- 21 of this state or of any political subdivision of this state;
- 22 (B) central federal depositories of criminal
- 23 records that are reasonably likely to have records or files
- 24 containing information that is subject to expunction; and
- (C) private entities that compile and
- 26 disseminate for compensation criminal history record information
- 27 that are reasonably likely to have records or files containing
- 28 information that is subject to expunction; and
- 29 (4) request the court to enter an order directing
- 30 expunction based on an entitlement to expunction under Article
- 31 55A.006.
- 32 (d) On receipt of a request under Subsection (c), the court
- 33 shall, without holding a hearing on the matter, enter a final order
- 34 directing expunction. (Code Crim. Proc., Art. 55.02, Sec. 2a.)

- 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 the person resides.
- (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.
- (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).
- expunction under Article 55.01(d).

 (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.

1	Revised Law
2	Art. 55A.257. DEPARTMENT OF PUBLIC SAFETY MAY FILE PETITION
3	ON PERSON'S BEHALF. The director of the Department of Public
4	Safety or the director's authorized representative may file on
5	behalf of a person described by Article 55A.251 or 55A.256 an ex
6	parte petition for expunction in a district court for the county in
7	which:
8	(1) the person was arrested; or
9	(2) the offense was alleged to have occurred. (Code
10	Crim. Proc., Art. 55.02, Sec. 2(e).)
11	Source Law
12 13 14 15 16 17 18 19 20	(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.
21	Revised Law
22	Art. 55A.258. EXPUNCTION ON BEHALF OF DECEASED PERSON. (a)
23	In this article, "close relative of a deceased person" means the
24	grandparent, parent, spouse, or adult brother, sister, or child of
25	a deceased person.
26	(b) A close relative of a deceased person who, if not
27	deceased, would be entitled to expunction of records and files
28	under Subchapter A, B, or C may file on behalf of the deceased
29	person an ex parte petition for expunction under Article 55A.251 or
30	55A.252 or an application for expunction under Article 55A.256, as
31	applicable. If the court finds that the deceased person would be
32	entitled to expunction of any record or file that is the subject of
33	the petition, the court shall enter an order directing expunction.
34	(Code Crim. Proc., Art. 55.011.)
35	Source Law
36 37 38 39 40	Art. 55.011. RIGHT OF CLOSE RELATIVE TO SEEK EXPUNCTION ON BEHALF OF DECEASED PERSON. (a) In this article, "close relative of a deceased person" means the grandparent, parent, spouse, or adult brother, sister, or child of a deceased person.

(b) A close relative of a deceased person who, if not deceased, would be entitled to expunction of records and files under Article 55.01 may file on behalf of the deceased person an exparte petition for expunction under Section 2 or 2a, Article 55.02. If the court finds that the deceased person would be entitled to expunction of any record or file that is the subject of the petition, the court shall enter an order directing expunction.

Revisor's Note

- 55.011(b), Code (1)Article of Criminal Procedure, provides that a close relative of deceased person who would be entitled to expunction of records and files under Article 55.01, Criminal Procedure, may file on behalf of the deceased person an ex parte petition for expunction under Section 2 or 2a, Article 55.02, Code of Criminal The provisions of Article 55.01 specifying Procedure. when a person is entitled to or eligible for expunction or when an expunction may be granted are revised as Subchapters A, B, and C of this chapter. The provisions of Section 2 of Article 55.02 relating to the filing of a petition for expunction are revised as Articles 55A.251 and 55A.252 of this chapter. revised law is drafted accordingly.
- (2) Article 55.011(b), Code of Criminal Procedure, refers to the filing of "an ex parte petition for expunction under Section 2 or 2a, Article 55.02." Under Section 2a, a person files for expunction with the representing the state, not a petition for expunction as under Section 2. The revised law is drafted accordingly.

SUBCHAPTER G. EXPUNCTION ORDER

35 Revised Law

Art. 55A.301. REQUIRED CONTENT. (a) An expunction order entered by a court under Subchapter E or F must have attached and incorporate by reference a copy of the judgment of acquittal, if

1

2

3

4 5

6 7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

2.8

29

30

31

32

33

```
1
    any, and must include:
 2
                       the following information on the person who is the
 3
    subject of the expunction order:
 4
                        (A)
                             full name;
 5
                        (B)
                             sex;
 6
                        (C)
                             race;
                             date of birth;
 7
                        (D)
 8
                        (E)
                             driver's license number; and
 9
                        (F)
                             social security number;
                  (2)
10
                       the offense charged against the person who is the
    subject of the expunction order, if any;
11
12
                  (3)
                       the date of the applicable arrest;
                       the case number and court of offense, if any; and
13
14
                       the incident number assigned to the individual
                  (5)
    incident of arrest under Article 66.251(b)(1) by the Department of
15
16
    Public Safety.
17
                 An expunction order issued by a court under Subchapter E
    or F must require any state agency that sent information concerning
18
19
         arrest to a central federal depository to request the
    depository to return all records and files subject to the order.
20
    (Code Crim. Proc., Art. 55.02, Secs. 3(a) (part), (b).)
21
22
                                    Source Law
23
                            (a)
                                  In an order of expunction issued
                 Sec. 3.
           under this article, the court shall require any state
24
           agency that sent information concerning the arrest to
25
           a central federal depository to request the depository to return all records and files subject to the order of
26
27
28
           expunction.
29
                       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
30
31
32
33
           person who is the subject of the expunction order:
34
                                   full name;
                              (A)
35
                              (B)
                                   sex;
36
                              (C)
                                   race;
37
                              (D)
                                   date of birth;
38
                                   driver's license number; and
                              (E)
39
                              (F)
                                   social security number;
40
                        (2)
                             the offense charged against the person
41
           who is the subject of the expunction order;
42
                        (3)
                             the date the person who is the subject
43
           of the expunction order was arrested;
44
                             the case number and court of offense;
                        (4)
45
           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.

Revisor's Note

- (1)Section 3(a), Article 55.02, Code of Criminal Procedure, prescribes certain content for an "order of expunction issued under this article." 55.02, Code of Section 3(b), Article Procedure, refers to "[t]he order of expunction entered by the court," meaning the order described by Section 3(a). The provisions of Article 55.02, Code of Criminal Procedure, that authorize or require a court to issue or enter an expunction order are revised in Subchapters E and F of this chapter. The revised law is drafted accordingly.
- Section 3(b), Article 55.02, (2) Code ofCriminal Procedure, requires an expunction order ordered by the court to include a copy of the judgment of acquittal, the offense charged against the person who is the subject of the expunction order, and the case number and court of offense. The revised law adds "if any" to these requirements for the convenience of the reader because Article 55.01, Code of Criminal Procedure, revised in relevant part as Subchapters A, B, and C of this chapter, provides many different grounds for expunction apart from acquittal, including grounds for cases in which no charge may have been filed.
- (3) Section 3(b)(3), Article 55.02, Code of Criminal Procedure, requires an expunction order to include the date "the person who is the subject of the expunction order was arrested." The revised law substitutes "of the applicable arrest" for the quoted language because a person who is the subject of an expunction order will not necessarily have been

1

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

2.2

23

24

25

26

27

28

29

30

31

32

33

34

35

- 1 arrested. (See Article 55.01(d)(2), revised as Article
- 2 55A.006(2) of this chapter.)
- 3 <u>Revise</u>d Law
- 4 Art. 55A.302. RETENTION OF CERTAIN RECORDS AFTER
- 5 EXPUNCTION. (a) If the state establishes that the person who is
- 6 the subject of an expunction order is still subject to conviction
- 7 for an offense arising out of the transaction for which the person
- 8 was arrested because the limitations period has not expired and
- 9 there is reasonable cause to believe that the state may proceed
- 10 against the person for the offense, the court may provide in the
- 11 order that the law enforcement agency and the attorney representing
- 12 the state responsible for investigating the offense retain any
- 13 records and files that are necessary to the investigation.
- 14 (b) In the case of a person who is the subject of an
- 15 expunction order on the basis of an acquittal, the court may provide
- 16 in the expunction order that the law enforcement agency and the
- 17 attorney representing the state retain records and files if:
- 18 (1) the records and files are necessary to conduct a
- 19 subsequent investigation and prosecution of a person other than the
- 20 person who is the subject of the expunction order; or
- 21 (2) the state establishes that the records and files
- 22 are necessary for use in:
- 23 (A) another criminal case, including a
- 24 prosecution, motion to adjudicate or revoke community supervision,
- 25 parole revocation hearing, mandatory supervision revocation
- 26 hearing, punishment hearing, or bond hearing; or
- 27 (B) a civil case, including a civil suit or suit
- 28 for possession of or access to a child.
- (c) The court shall provide in the expunction order that the
- 30 applicable law enforcement agency and attorney representing the
- 31 state may retain the arrest records and files of any person who
- 32 becomes entitled to an expunction of those records and files based
- 33 on the expiration of a period described by Article 55A.052(a)(1),
- 34 (2), or (3), but without the certification of the attorney

- 1 representing the state as described by Article 55A.052(a)(4).
- 2 (d) Articles 55A.401 and 55A.402 apply to records and files
- 3 retained under this article unless:
- 4 (1) the person who is the subject of the expunction
- 5 order is again arrested for or charged with an offense arising out
- 6 of the transaction for which the person was arrested; or
- 7 (2) the court provides for the retention of records
- 8 and files under Subsection (b) or (c). (Code Crim. Proc., Art.
- 9 55.02, Sec. 4.)

10 <u>Source Law</u>

- Sec. 4. (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.
- (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)(a), (i)(d).
- (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.
- (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.

Revised Law

1

12

13

14

15

16

17

18

19

20

21

22

Art. 55A.303. APPEAL. A person who is the subject of an expunction order issued under Subchapter E or F or an agency protesting the expunction may appeal the court's decision in the same manner as in other civil cases. (Code Crim. Proc., Art. 55.02, Sec. 3(a) (part).)

7 Source Law

8 (a) ... The person who is the subject of the 9 expunction order or an agency protesting the 10 expunction may appeal the court's decision in the same 11 manner as in other civil cases.

Revisor's Note

The second sentence of Section 3(a), Article 55.02, Code of Criminal Procedure, refers to "the expunction order." It is clear from the context that this is a reference to "an order of expunction issued under this article" from the first sentence of Section 3(a), revised as Article 55A.301(b) of this chapter. The revised law adds a reference to Subchapters E and F for the reason stated in Revisor's Note (1) to Article 55A.301.

SUBCHAPTER H. NOTICE AND DISPOSITION OF RECORDS FOLLOWING

23 EXPUNCTION ORDER

24 <u>Revised Law</u>

- 25 Art. 55A.351. NOTICE OF EXPUNCTION ORDER. (a) When an expunction order issued under Subchapter E or F 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.
- 31 (b) The certified copy of the order must be sent by secure 32 electronic mail, electronic transmission, or facsimile 33 transmission or otherwise by certified mail, return receipt 34 requested.
- 35 (c) In sending the order under Subsection (a) to a

- 1 governmental entity named in the order, the clerk may elect to
- 2 substitute hand delivery for certified mail, but the clerk must
- 3 receive a receipt for that hand-delivered order.
- 4 (d) Any returned receipts received by the clerk from copies
- 5 of the order shall be maintained in the file on the proceedings
- 6 under Article 55A.356(b). (Code Crim. Proc., Art. 55.02, Secs.
- 7 3(c), (d) (part).)

11

12 13

14 15

16

17

18

19 20 21

22

23

24

25

26

27

2.8

29

30

31

32

33

34

35

36

37

38

39

40

41

8 Source Law

- (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.
- (d) Any returned receipts received by the clerk from . . . copies of the order shall be maintained in the file on the proceedings under this chapter.

Revisor's Note

- 3(c), (1)Section Article 55.02, Code of Procedure, refers "the Criminal to order ofexpunction." It is clear from the context that this is a reference to "an order of expunction issued under this article" from the first sentence of Section 3(a), revised as Article 55A.301(b) of this chapter. revised law adds a reference to Subchapters E and F for the reason stated in Revisor's Note (1) to Article 55A.301.
- (2) Section 3(d), Article 55.02, Code of Criminal Procedure, refers to "the file on the proceedings under this chapter." The revised law substitutes a cross-reference to Article 55A.356(b) for the reason stated in Revisor's Note (2) to Article 55A.254.

1 Revised Law

- 2 Art. 55A.352. DUTY OF DEPARTMENT OF PUBLIC SAFETY. (a) In
- 3 this article, "department" means the Department of Public Safety.
- 4 (b) The department shall notify any central federal
- 5 depository of criminal records by any means, including secure
- 6 electronic mail, electronic transmission, or facsimile
- 7 transmission, of an order received under Article 55A.351(a) with an
- 8 explanation of the effect of the order and a request that the
- 9 depository, as appropriate, either:
- 10 (1) destroy or return to the court the records in
- 11 possession of the depository that are subject to the order,
- 12 including any information with respect to the order; or
- 13 (2) comply with Article 55A.354 pertaining to
- 14 information contained in records and files of a person entitled to
- 15 expunction under Article 55A.006.
- 16 (c) The department shall provide, by secure electronic
- 17 mail, electronic transmission, or facsimile transmission, notice
- 18 of the order to any private entity that is named in the order or that
- 19 purchases criminal history record information from the department.
- 20 (d) The notice under Subsection (c) must include an
- 21 explanation of the effect of the order and a request that the
- 22 private entity destroy any information in the possession of the
- 23 entity that is subject to the order.
- (e) The department may charge to a private entity that
- 25 purchases criminal history record information from the department a
- 26 fee in an amount sufficient to recover costs incurred by the
- 27 department in providing notice under Subsection (c). (Code Crim.
- 28 Proc., Art. 55.02, Secs. 3(c-1), (c-2); New.)

29 <u>Source Law</u>

- 30 (c-1) The Department of Public Safety shall
 31 notify any central federal depository of criminal
 32 records by any means, including secure electronic
 33 mail, electronic transmission, or facsimile
 34 transmission, of the order with an explanation of the
 35 effect of the order and a request that the depository,
- as appropriate, either:
 (1) destroy or return to the
- 37 (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).

The Department of Public Safety shall also (c-2)bу 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 entity that the destroy any information in 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.

Revisor's Note

- (1) The revised law adds the definition of "department" for the convenience of the reader and to avoid the frequent, unnecessary repetition of the substance of the definition.
- (2) Section 3(c-1), Article 55.02, Code of Criminal Procedure, refers to "the order." It is clear from the context that this is a reference to the expunction order sent by the clerk of the issuing court to the Department of Public Safety under Section 3(c), Article 55.02, Code of Criminal Procedure. Section 3(c) is revised in relevant part as Article 55A.351(a) of this chapter, and the revised law is drafted accordingly.

34 Revised Law

Art. 55A.353. DISPOSITION OF EXPUNGED RECORDS. Except as provided by Articles 55A.354 and 55A.357, on receipt of an expunction order issued under Subchapter E or F, each official or agency or other governmental entity named in the order shall:

- (1) as appropriate:
- 40 (A) return all records and files that are subject 41 to the expunction order to the court; or
- 42 (B) in cases other than those described by 43 Articles 55A.202 and 55A.203, if removal is impracticable,

1

2

3

4

5 6 7

8

9 10

11 12 13

14

15 16 17

18 19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

- 1 obliterate all portions of the record or file that identify the
- 2 person who is the subject of the order and notify the court of the
- 3 action; and

11

12 13 14

15

16 17 18

19 20 21

2.2

23

24

25

26

2.7

28

29

30

31

32

33

34

35

36

37

38

- 4 (2) delete from the named entity's public records all
- 5 index references to the records and files that are subject to the
- 6 expunction order. (Code Crim. Proc., Art. 55.02, Sec. 5(a).)

7 Source Law

- Sec. 5. (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.

Revisor's Note

- (1) Section 5(a), Article 55.02, Code of Criminal Procedure, refers to "the order." It is clear from the context that this is a reference to "an order of expunction issued under this article" from the first sentence of Section 3(a), revised as Article 55A.301(b) of this chapter. The revised law adds a reference to Subchapters E and F for the reason stated in Revisor's Note (1) to Article 55A.301.
- (2) Section 5(a), Article 55.02, Code of Criminal Procedure, refers to expunction orders for cases other than those described by Section 1a of that article. The provisions of Section 1a relating to the types of cases for which expunction orders may be entered are revised as Articles 55A.202 and 55A.203 of chapter, and the revised law is this drafted accordingly.

39 Revised Law

40 Art. 55A.354. DISPOSITION OF RECORDS EXPUNGED DUE TO

- 1 MISTAKEN IDENTITY. On receipt of an order granting expunction to a
- 2 person entitled to expunction under Article 55A.006, each official,
- 3 agency, or other governmental entity named in the order:
- 4 (1) shall:
- 5 (A) obliterate all portions of the record or file
- 6 that identify the person who is the subject of the order; and
- 7 (B) if applicable, substitute for all
- 8 obliterated portions of the record or file any available
- 9 information that identifies the person arrested; and
- 10 (2) may not return the record or file or delete index
- 11 references to the record or file. (Code Crim. Proc., Art. 55.02,
- 12 Sec. 5(f).)

15 16 17

18

19

20

21

22

23

24

13 <u>Source Law</u>

- (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.

26 <u>Revisor's Note</u>

Section 5(f)(1)(A), Article 55.02, Code of 27 (1)28 Criminal Procedure, refers to a duty to obliterate all a record or file that 29 portions of identify a 30 "petitioner" who is entitled to an expunction order 31 under Article 55.01(d). It is clear from the context 32 of the entitlement to an expunction order under Article 55.01(d), revised as Article 55A.006 of this 33 chapter, that the reference to "petitioner" is a 34 reference to both an applicant in Section 2a, Article 35 55.02, Code of Criminal Procedure, revised as Article 36 37 55A.256 of this chapter, and to a person on whose 38 behalf an ex parte petition is filed in Section 2(e),

39

Article 55.02, Code of Criminal Procedure, revised as

Article 55A.257 of this chapter. For the convenience of the reader, the revised law substitutes the phrase "person who is the subject of the order" for the reference to "petitioner," because the entitlement under Article 55.01(d) applies regardless of how the expunction order is obtained.

Section 5(f)(1)(B), Article 55.02, Code of Criminal Procedure, requires a governmental entity named in an expunction order issued in the case of a person entitled to expunction under Article 55.01(d), revised as Article 55A.006 of this chapter, to obliterate portions of records identifying the person who is the subject of the petition and to "substitute for all obliterated portions of the record or file any available information that identifies the person arrested." The revised law adds "if applicable" to the quoted language because Article 55.01(d) grants the right to an expunction to both an applicant for expunction who is arrested based on a clerical error and to an applicant whose identifying information is given by another person to an officer arresting that other person. Only the latter scenario would require the substitution of "information that identifies the person arrested."

25 Revised Law

Art. 55A.355. PROVIDING EXPUNGED RECORDS TO PERSON WHO IS SUBJECT OF EXPUNCTION. (a) The court may give the person who is the subject of an expunction order all records and files returned to the court pursuant to the order.

- 30 (b) This article does not apply to a person who is the 31 subject of an expunction order on the basis of:
- 32 (1) an acquittal; or
- 33 (2) an entitlement under Article 55A.006. (Code Crim.
- 34 Proc., Art. 55.02, Sec. 5(b).)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

1 Source Law

2

3

4

5

6

7

8

(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.

Revised Law

- Art. 55A.356. INSPECTION AND DISPOSITION OF COURT'S RECORDS 9 10 CONCERNING EXPUNCTION. (a) Except in the case of a person who is the subject of an expunction order based on an entitlement under 11 12 Article 55A.006 and except as provided by Article 55A.357, if an expunction order is issued under Subchapter E or F, the court 13 records concerning expunction proceedings are not open for 14 inspection by any person except the person who is the subject of the 15 order unless: 16
- 17 (1) the order permits retention of a record under 18 Article 55A.302 and the person is again arrested for or charged with 19 an offense arising out of the transaction for which the person was 20 arrested; or
- 21 (2) the court provides for the retention of records 22 and files under Article 55A.302(a).
- 23 (b) The clerk of the court issuing the order shall 24 obliterate all public references to the proceeding and maintain the 25 files or other records in an area not open to inspection.
- Except in the case of a person who is the subject of an 26 expunction order on the basis of an acquittal or an expunction order 27 28 based on an entitlement under Article 55A.006 and except as provided by Article 55A.357, the clerk of the court shall destroy 29 all the files or other records maintained under Subsection (b) not 30 earlier than the 60th day after the date the order is issued or 31 later than the first anniversary of that date, unless the records or 32 33 files were released under Article 55A.355.
- 34 (d) Not later than the 30th day before the date on which the 35 clerk destroys files or other records under Subsection (c), the 36 clerk shall provide notice by mail, electronic mail, or facsimile

- 1 transmission to the attorney representing the state in the
- 2 expunction proceeding. If the attorney representing the state in
- 3 the expunction proceeding objects to the destruction not later than
- 4 the 20th day after receiving notice under this subsection, the
- 5 clerk may not destroy the files or other records until the first
- 6 anniversary of the date the expunction order is issued or the first
- 7 business day after that date.

- 8 (e) The clerk shall certify to the court the destruction of
- 9 files or other records under Subsection (c). (Code Crim. Proc.,
- 10 Art. 55.02, Secs. 5(c), (d), (d-1), (e).)

11 Source Law

- (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.
- (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).
- (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.
- (e) The clerk shall certify to the court the destruction of files or other records under Subsection (d) of this section.

Revisor's Note

Section 5(c), Article 55.02, Code of Criminal Procedure, restricts the inspection of court records concerning expunction proceedings if an expunction order is issued under "this article," meaning Article 55.02, Code of Criminal Procedure. The revised law adds a reference to Subchapters E and F for the reason stated in Revisor's Note (1) to Article 55A.301.

Revised Law

- 10 Art. 55A.357. RETENTION OF FINANCIAL TRANSACTION RECORDS.
- 11 (a) Notwithstanding Articles 55A.353, 55A.354, 55A.355, and
- 12 55A.356 and in accordance with internal financial control
- 13 procedures, an official, agency, court, or other entity may retain
- 14 receipts, invoices, vouchers, or similar records of financial
- 15 transactions that arose from an expunction proceeding or
- 16 prosecution of the underlying criminal action.
- 17 (b) An official, agency, court, or other entity that retains 18 records under this article shall obliterate all portions of the
- 19 record or file that identify the person who is the subject of the
- 20 expunction order. (Code Crim. Proc., Art. 55.02, Sec. 5(g).)

21 Source Law

Notwithstanding any other provision in this (g) 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 An official, agency, court, control procedures. other entity that retains records under subsection shall obliterate all portions of the record or the file that identify the person who is the subject of the expunction order.

Revisor's Note

(1) Section 5(g), Article 55.02, Code of Criminal Procedure, refers to the "other provision[s]" in that section. The other subsections of Section 5 are revised as Articles 55A.353, 55A.354, 55A.355, and 55A.356 of this chapter, and the revised law is drafted accordingly.

1

2

3

4

5

6

7

8

9

22

27

28

29

30 31

32

33

34

35

36

37

38

39

1	(2) Section 5(g), Article 55.02, Code of
2	Criminal Procedure, refers to a "criminal cause." The
3	revised law substitutes "action" for "cause" because
4	in this context the terms are synonymous and the former
5	is more consistent with modern usage.
6	SUBCHAPTER I. EFFECT OF EXPUNCTION ORDER
7	Revised Law
8	Art. 55A.401. EFFECT OF FINAL EXPUNCTION ORDER. When an
9	expunction order issued under Subchapter E or F is final:
10	(1) the release, maintenance, dissemination, or use of
11	the expunged records and files for any purpose is prohibited;
12	(2) except as provided by Subdivision (3), the person
13	arrested may deny the occurrence of the arrest and the existence of
14	the expunction order; and
15	(3) the person arrested or any other person, when
16	questioned under oath in a criminal proceeding about an arrest for
17	which the records have been expunded, may state only that the matter
18	in question has been expunged. (Code Crim. Proc., Art. 55.03.)
19	Source Law
20 21 22 23 24 25 26 27 28 30 31 32 33	Art. 55.03. EFFECT OF EXPUNCTION. When the order of expunction is final: (1) the release, maintenance, dissemination, or use of the expunged records and files for any purpose is prohibited; (2) except as provided in Subdivision (3) of this article, the person arrested may deny the occurrence of the arrest and the existence of the expunction order; and (3) the person arrested or any other person, when questioned under oath in a criminal proceeding about an arrest for which the records have been expunged, may state only that the matter in question has been expunged.
34	Revisor's Note
35	Article 55.03, Code of Criminal Procedure, refers
36	to "the order of expunction." It is clear from the

89C2 MEW-D

37

38

39

40

context that this is a reference to an expunction order

in Section 3(a), Article 55.02, Code of Criminal

Procedure, revised as Article 55A.301(b) of this

chapter, and in Section 5(c), Article 55.02, Code of

1	O 1	D =		i 7 1 1 1	$\Gamma\Gamma\Lambda$ 2Γ	- E +1
	criminai	Procedure,	revised	in Article	77A.17n	OT THIS

- 2 chapter. The revised law adds a reference to
- 3 Subchapters E and F for the reason stated in Revisor's
- 4 Note (1) to Article 55A.301.

5 Revised Law

- 6 Art. 55A.402. OFFENSE FOR VIOLATION OF EXPUNCTION ORDER.
- 7 (a) A person commits an offense if the person:
- 8 (1) learns of an arrest while an officer or employee of
- 9 the state or of any agency or other entity of the state or any
- 10 political subdivision of the state;
- 11 (2) knows of an order expunging the records and files
- 12 relating to that arrest; and
- 13 (3) knowingly releases, disseminates, or otherwise
- 14 uses the records or files.
- 15 (b) A person commits an offense if the person knowingly
- 16 fails to return or to obliterate identifying portions of a record or
- 17 file ordered expunged under this chapter.
- 18 (c) An offense under this article is a Class B misdemeanor.
- 19 (Code Crim. Proc., Art. 55.04.)

20 Source Law

21 Art. 55.04. VIOLATION OF EXPUNCTION ORDER. 22 Sec. 1. A person who acquires knowledge

Sec. 1. A person who acquires knowledge of an arrest while an officer or employee of the state or of any agency or other entity of the state or any political subdivision of the state and who knows of an order expunging the records and files relating to that arrest commits an offense if he knowingly releases, disseminates, or otherwise uses the records or files.

Sec. 2. A person who knowingly fails to return or to obliterate identifying portions of a record or file ordered expunged under this chapter commits an offense.

Sec. 3. An offense under this article is a Class B misdemeanor.

Revisor's Note

Section 1, Article 55.04, Code of Criminal
Procedure, refers to a person who "acquires knowledge"
of an arrest. The revised law substitutes "learns" for
"acquires knowledge" because in this context the terms
are synonymous and the former is more consistent with

23

24 25

26

27

28

29

30

31

32

33

34

35

1	modern usage.			
2	SUBCHAPTER J. NOTICE OF EXPUNCTION LAW			
3	Revised Law			
4	Art. 55A.451. NOTICE OF EXPUNCTION LAW TO PERSONS RELEASED			
5	FOLLOWING ARREST. On release or discharge of an arrested person,			
6	the person responsible for the release or discharge shall give the			
7	released or discharged person a written explanation of that			
8	person's rights under this chapter and a copy of the provisions of			
9	this chapter. (Code Crim. Proc., Art. 55.05.)			
10	Source Law			
11 12 13 14 15	Art. 55.05. NOTICE OF RIGHT TO EXPUNCTION. On release or discharge of an arrested person, the person responsible for the release or discharge shall give him a written explanation of his rights under this chapter and a copy of the provisions of this chapter.			
16	CHAPTER 19A. GRAND JURY ORGANIZATION			
17	SUBCHAPTER F. ORGANIZATION AND TERM OF GRAND JURY			
18	Art. 19A.256. REFERRAL TO GRAND JURY IN SEXUAL			
19	ASSAULT CASES			
20	CHAPTER 19A. GRAND JURY ORGANIZATION			
21	SUBCHAPTER F. ORGANIZATION AND TERM OF GRAND JURY			
22	Revised Law			
23	Art. 19A.256. REFERRAL TO GRAND JURY IN SEXUAL ASSAULT			
24	CASES. (a) If a district judge becomes aware that sexual assault			
25	within the jurisdiction of the court has probably been committed,			
26	the judge shall direct the grand jury to investigate the			
27	accusation:			
28	(1) immediately, if the court is in session; or			
29	(2) at the next term of a district court in any county			
30	of the district, if the court is not in session.			
31	(b) If the court is in session but the grand jury has been			
32	discharged, the district judge shall immediately recall the grand			
33	jury to investigate the accusation. (Code of Crim. Proc., Art.			
34	13.15 (part).)			
35	Source Law			
36	Art. 13.15. SEXUAL ASSAULT. [Sexual assault			

may be prosecuted in the county in which it is committed, in the county in which the victim is abducted, or in any county through or into which the victim is transported in the course of the abduction and sexual assault.] When it shall come to the knowledge of any district judge whose court has jurisdiction under this Article that sexual assault has probably been committed, he shall immediately, if his court be in session, and if not in session, then, at the first term thereafter in any county of the district, call the attention of the grand jury thereto; and if the court be in session, but the grand jury has been discharged, he shall immediately recall the grand jury to investigate the accusation. . . .

Revisor's Note

Article 13.15, Code of Criminal Procedure, requires a district judge to direct a grand jury to investigate an accusation of sexual assault under certain circumstances if the court has jurisdiction "under this Article." The portion of Article 13.15 relating to the jurisdiction of the court is revised as Article 13A.152, Code of Criminal Procedure. The revised law omits the reference to "under this Article" because Article 13A.152, Code of Criminal Procedure, applies on its own terms.

26 TRANSPORTATION CODE

27 SECTION 502.407. OPERATION OF VEHICLE WITH EXPIRED

29 SECTION 502.407. OPERATION OF VEHICLE WITH EXPIRED LICENSE PLATE

30 Revised Law

31 (b-1) For purposes of dismissing a charge under Subsection

32 (b), "day" does not include Saturday, Sunday, or a legal holiday.

33 (Code Crim. Proc., Art. 45.003.)

34 Source Law

Art. 45.003. DEFINITION FOR CERTAIN PROSECUTIONS. For purposes of dismissing a charge under Section 502.407, Transportation Code, "day" does not include Saturday, Sunday, or a legal holiday.

39 <u>Revisor's Note</u>

Article 45.003, Code of Criminal Procedure, defines
the word "day" for purposes of dismissing a charge
"under Section 502.407, Transportation Code." The

3

5

6

8 9 10

11 12

13

15

16

17

18

19

20

2.1

2.2

23

24

25

portion of Section 502.407, Transportation Code, relating to the dismissal of a charge is in Subsection (b) of that section, and the revised law is drafted accordingly.

- 1 APPENDIX A
- 2 CONFORMING AMENDMENTS
- 3 SECTION 2.001. Section 122.351, Agriculture Code, is
- 4 amended to read as follows:
- 5 Sec. 122.351. DEFINITION. In this subchapter, "peace
- 6 officer" has the meaning assigned by Article 2A.001 [2.12], Code of
- 7 Criminal Procedure.
- 8 SECTION 2.002. Section 153.003, Agriculture Code, is
- 9 amended to read as follows:
- 10 Sec. 153.003. INSPECTIONS. Program rules must authorize
- 11 the special rangers appointed under Article 2A.006 [2.125], Code of
- 12 Criminal Procedure, and other association employees designated by
- 13 the special rangers, to inspect and record brands and other
- 14 identifying characteristics of cattle at livestock auction
- 15 markets.
- SECTION 2.003. Section 106.12(f), Alcoholic Beverage Code,
- 17 is amended to read as follows:
- 18 (f) The procedures for expunction provided under this
- 19 section are separate and distinct from the expunction procedures
- 20 under Chapter 55A [55], Code of Criminal Procedure.
- 21 SECTION 2.004. Section 108.001(6), Business & Commerce
- 22 Code, is amended to read as follows:
- 23 (6) "Peace officer" means a person elected, employed,
- 24 or appointed as a peace officer under Article $\underline{2A.001}$ [$\underline{2.12}$], Code of
- 25 Criminal Procedure, or other law.
- 26 SECTION 2.005. Section 109.001(5), Business & Commerce
- 27 Code, is amended to read as follows:
- 28 (5) "Confidential criminal record information of a
- 29 child" means information about a person's involvement in the
- 30 criminal justice system resulting from conduct that occurred or was
- 31 alleged to occur when the person was younger than 17 years of age
- 32 that is confidential under Chapter $\underline{\text{45A}}$ [45], Code of Criminal
- 33 Procedure, or other law. The term does not include:
- 34 (A) criminal record information of a person

- 1 certified to stand trial as an adult for that conduct, as provided
- 2 by Section 54.02, Family Code; or
- 3 (B) information relating to a traffic offense.
- 4 SECTION 2.006. Section 109.002(a), Business & Commerce
- 5 Code, is amended to read as follows:
- 6 (a) Except as provided by Subsection (b), this chapter
- 7 applies to:
- 8 (1) a business entity that:
- 9 (A) publishes criminal record information,
- 10 including information:
- (i) originally obtained pursuant to a
- 12 request for public information under Chapter 552, Government Code;
- 13 or
- 14 (ii) purchased or otherwise obtained by the
- 15 entity or an affiliated business entity from the Department of
- 16 Public Safety under Subchapter F, Chapter 411, Government Code; and
- 17 (B) requires the payment:
- (i) of a fee in an amount of \$150 or more or
- 19 other consideration of comparable value to remove criminal record
- 20 information; or
- 21 (ii) of a fee or other consideration to
- 22 correct or modify criminal record information; or
- 23 (2) a business entity that publishes confidential
- 24 juvenile record information or confidential criminal record
- 25 information of a child in a manner not permitted by Chapter 58,
- 26 Family Code, Chapter 45A [45], Code of Criminal Procedure, or other
- 27 law, regardless of:
- 28 (A) the source of the information; or
- 29 (B) whether the business entity charges a fee for
- 30 access to or removal or correction of the information.
- 31 SECTION 2.007. Section 109.005(a), Business & Commerce
- 32 Code, is amended to read as follows:
- 33 (a) A business entity may not publish any criminal record
- 34 information in the business entity's possession with respect to

- 1 which the business entity has knowledge or has received notice
- 2 that:
- 3 (1) an order of expunction has been issued under
- 4 Article 55A.201 [55.02], Code of Criminal Procedure; or
- 5 (2) an order of nondisclosure of criminal history
- 6 record information has been issued under Subchapter E-1, Chapter
- 7 411, Government Code.
- 8 SECTION 2.008. Section 114.0001(4), Business & Commerce
- 9 Code, as added by Chapter 47 (H.B. 390), Acts of the 87th
- 10 Legislature, Regular Session, 2021, is amended to read as follows:
- 11 (4) "Peace officer" means a peace officer described by
- 12 Article 2A.001 [2.12], Code of Criminal Procedure, appointed or
- 13 employed to serve as a peace officer for a law enforcement agency.
- 14 SECTION 2.009. Section 30.006(a), Civil Practice and
- 15 Remedies Code, is amended to read as follows:
- 16 (a) In this section, "law enforcement agency" means a
- 17 governmental agency that employs a peace officer as defined by
- 18 [under] Article 2A.001 [2.12], Code of Criminal Procedure.
- 19 SECTION 2.010. Section 78A.001(1), Civil Practice and
- 20 Remedies Code, is amended to read as follows:
- 21 (1) "First responder" means a law enforcement, fire
- 22 protection, or emergency medical services employee or volunteer,
- 23 including:
- 24 (A) a peace officer as defined by Article 2A.001
- 25 [2.12], Code of Criminal Procedure;
- 26 (B) fire protection personnel as defined by
- 27 Section 419.021, Government Code;
- 28 (C) a volunteer firefighter who is:
- 29 (i) certified by the Texas Commission on
- 30 Fire Protection or by the State Firefighters' and Fire Marshals'
- 31 Association of Texas; or
- 32 (ii) a member of an organized volunteer
- 33 fire-fighting unit that renders fire-fighting services without
- 34 remuneration and conducts a minimum of two drills each month, each

- 1 two hours long; and
- 2 (D) an individual certified as emergency medical
- 3 services personnel by the Department of State Health Services.
- 4 SECTION 2.011. Section 100.001, Civil Practice and Remedies
- 5 Code, is amended to read as follows:
- 6 Sec. 100.001. AFFIRMATIVE DEFENSE. It is an affirmative
- 7 defense to a civil action for damages for personal injury or death
- 8 brought against a person performing duties under Article 2A.002(f)
- 9 $[\frac{2.122(f)}{}]$, Code of Criminal Procedure, the person's employer, or
- 10 the owner of a commercial nuclear power plant where the person was
- 11 working, that at the time the cause of action arose the person was
- 12 justified in using force under Chapter 9, Penal Code.
- SECTION 2.012. Article 5.03, Code of Criminal Procedure, is
- 14 amended to read as follows:
- 15 Art. 5.03. FAMILY OR HOUSEHOLD RELATIONSHIP DOES NOT CREATE
- 16 AN EXCEPTION TO OFFICIAL DUTIES. A general duty prescribed for an
- 17 officer by Chapter 2A [2 of this code] is not waived or excepted in
- 18 any family violence case or investigation because of a family or
- 19 household relationship between an alleged violator and the victim
- 20 of family violence. A peace officer's or a magistrate's duty to
- 21 prevent the commission of criminal offenses, including acts of
- 22 family violence, is not waived or excepted because of a family or
- 23 household relationship between the potential violator and victim.
- 24 SECTION 2.013. Articles 14.03(g)(1) and (2), Code of
- 25 Criminal Procedure, are amended to read as follows:
- 26 (1) A peace officer described by [listed in
- 27 Subdivision (1), (2), or (5), Article 2A.001(1), (2), or (5)
- 28 [2.12], who is licensed under Chapter 1701, Occupations Code, and
- 29 is outside of the officer's jurisdiction may arrest without a
- 30 warrant a person who commits any offense within the officer's
- 31 presence or view, other than a violation of Subtitle C, Title 7,
- 32 Transportation Code.
- 33 (2) A peace officer <u>described</u> by [listed in
- 34 Subdivision $(3)_r$] Article 2A.001(3) [2.12], who is licensed under

- 1 Chapter 1701, Occupations Code, and is outside of the officer's
- 2 jurisdiction may arrest without a warrant a person who commits any
- 3 offense within the officer's presence or view, except that an
- 4 officer described in this subdivision who is outside of that
- 5 officer's jurisdiction may arrest a person for a violation of
- 6 Subtitle C, Title 7, Transportation Code, only if the offense is
- 7 committed in the county or counties in which the municipality
- 8 employing the peace officer is located.
- 9 SECTION 2.014. Article 15.18(d), Code of Criminal
- 10 Procedure, is amended to read as follows:
- 11 (d) This article does not apply to an arrest made pursuant
- 12 to a capias pro fine issued under Chapter 43 or Article 45A.259
- 13 [45.045].
- 14 SECTION 2.015. Article 17.291(a), Code of Criminal
- 15 Procedure, is amended to read as follows:
- 16 (a) In this article:
- 17 (1) "Family [family] violence" has the meaning
- 18 assigned [to that phrase] by Section 71.004, Family Code. [; and]
- 19 (2) "Magistrate [magistrate]" has the meaning
- 20 assigned [to it] by Article 2A.151 [2.09 of this code].
- SECTION 2.016. Section 4(a), Article 17.42, Code of
- 22 Criminal Procedure, is amended to read as follows:
- 23 (a) Except as otherwise provided by this subsection, if a
- 24 court releases an accused on personal bond on the recommendation of
- 25 a personal bond office, the court shall assess a personal bond
- 26 reimbursement fee of \$20 or three percent of the amount of the bail
- 27 fixed for the accused, whichever is greater. The court may waive
- 28 the fee or assess a lesser fee if good cause is shown. A court that
- 29 requires a defendant to give a personal bond under Article 45A.107
- 30 [45.016] may not assess a personal bond fee under this subsection.
- 31 SECTION 2.017. Article 24.01(c), Code of Criminal
- 32 Procedure, is amended to read as follows:
- 33 (c) A person who is not a peace officer may not be compelled
- 34 to accept the duty to execute a subpoena, but if the person [he]

- 1 agrees in writing to accept that duty and neglects or refuses to
- 2 serve or return the subpoena, the person [he] may be punished in
- 3 accordance with Article 2A.055 [2.16 of this code].
- 4 SECTION 2.018. Article 27.14(d), Code of Criminal
- 5 Procedure, is amended to read as follows:
- 6 (d) If written notice of an offense for which maximum
- 7 possible punishment is by fine only or of a violation relating to
- 8 the manner, time, and place of parking has been prepared,
- 9 delivered, and filed with the court and a legible duplicate copy has
- 10 been given to the defendant, the written notice serves as a
- 11 complaint to which the defendant may plead "guilty," "not guilty,"
- 12 or "nolo contendere." If the defendant pleads "not guilty" to the
- 13 offense or fails to appear based on the written notice, a complaint
- 14 shall be filed that conforms to the requirements of Chapter 45A [45]
- 15 of this code], and that complaint serves as an original complaint.
- 16 A defendant may waive the filing of a sworn complaint and elect that
- 17 the prosecution proceed on the written notice of the charged
- 18 offense if the defendant agrees in writing with the prosecution,
- 19 signs the agreement, and files it with the court.
- SECTION 2.019. Article 38.141(c), Code of Criminal
- 21 Procedure, is amended to read as follows:
- (c) In this article, "peace officer" means a person listed
- 23 in Article 2A.001 $[\frac{2.12}{}]$, and "special investigator" means a person
- 24 listed in Article 2A.002 [2.122].
- 25 SECTION 2.020. Section 9, Article 38.22, Code of Criminal
- 26 Procedure, is amended to read as follows:
- Sec. 9. Notwithstanding any other provision of this
- 28 article, no oral, sign language, or written statement that is made
- 29 by a person accused of an offense listed in Article 28.0202(a)
- 30 $\left[\frac{2.32(b)}{a}\right]$ and made as a result of a custodial interrogation
- 31 occurring in a place of detention, as [that term is] defined by
- 32 Article 2B.0201 [$\frac{2.32}{1}$], is admissible against the accused in a
- 33 criminal proceeding unless:
- 34 (1) an electronic recording was made of the statement,

- 1 as required by Article 2B.0202(a) [2.32(b)]; or
- 2 (2) the attorney representing the state offers proof
- 3 satisfactory to the court that good cause, as described by Article
- 4 2B.0202(c) [2.32(d)], existed that made electronic recording of the
- 5 custodial interrogation infeasible.
- 6 SECTION 2.021. Article 38.43(e), Code of Criminal
- 7 Procedure, is amended to read as follows:
- 8 (e) To the extent of any conflict, this article controls
- 9 over Article 2A.155 [2.21].
- 10 SECTION 2.022. Article 38.50(f), Code of Criminal
- 11 Procedure, is amended to read as follows:
- 12 (f) To the extent of any conflict between this article and
- 13 Article 2A.155 [2.21] or 38.43, this article controls.
- SECTION 2.023. Article 42.111, Code of Criminal Procedure,
- 15 is amended to read as follows:
- 16 Art. 42.111. DEFERRAL OF PROCEEDINGS IN CASES APPEALED TO
- 17 COUNTY COURT. If a defendant convicted of a misdemeanor punishable
- 18 by fine only appeals the conviction to a county court, on the trial
- 19 in county court the defendant may enter a plea of guilty or nolo
- 20 contendere to the offense. If the defendant enters a plea of guilty
- 21 or nolo contendere, the court may defer further proceedings without
- 22 entering an adjudication of guilt in the same manner as provided for
- 23 the deferral of proceedings in justice court or municipal court
- 24 under <u>Subchapter G, Chapter 45A</u> [Article 45.051 of this code]. This
- 25 article does not apply to a misdemeanor case disposed of under
- 26 Subchapter B, Chapter 543, Transportation Code, or a serious
- 27 traffic violation as defined by Section 522.003, Transportation
- 28 Code.
- 29 SECTION 2.024. Articles 42.15(a-1), (d), and (f), Code of
- 30 Criminal Procedure, are amended to read as follows:
- 31 (a-1) Notwithstanding any other provision of this article,
- 32 during or immediately after imposing a sentence in a case in which
- 33 the defendant entered a plea in open court as provided by Article
- 34 27.13, 27.14(a), or 27.16(a), a court shall inquire on the record

- 1 whether the defendant has sufficient resources or income to
- 2 immediately pay all or part of the fine and costs. If the court
- 3 determines that the defendant does not have sufficient resources or
- 4 income to immediately pay all or part of the fine and costs, the
- 5 court shall determine whether the fine and costs should be:
- 6 (1) subject to Subsection (c), required to be paid at
- 7 some later date or in a specified portion at designated intervals;
- 8 (2) discharged by performing community service under,
- 9 as applicable, Article 43.09(f), 45A.254, 45A.459, or 45A.460
- 10 [Article 45.049, Article 45.0492, as added by Chapter 227 (H.B.
- 11 350), Acts of the 82nd Legislature, Regular Session, 2011, or
- 12 Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts of the
- 13 82nd Legislature, Regular Session, 2011];
- 14 (3) waived in full or in part under Article 43.091 or
- 15 45A.257 [45.0491]; or
- 16 (4) satisfied through any combination of methods under
- 17 Subdivisions (1)-(3).
- 18 (d) A judge may allow a defendant who is a child, as defined
- 19 by Article 45A.453(a) [45.058(h)], to elect at the time of
- 20 conviction, as defined by Section 133.101, Local Government Code,
- 21 to discharge the fine and costs by:
- 22 (1) performing community service or receiving
- 23 tutoring under Article 45A.460 [45.0492, as added by Chapter 227
- 24 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011];
- 25 or
- 26 (2) paying the fine and costs in a manner described by
- 27 Subsection (b).
- (f) The requirement under Article 45A.460(a) [45.0492(a),
- 29 as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature,
- 30 Regular Session, 2011, that an offense occur in a building or on
- 31 the grounds of the primary or secondary school at which the
- 32 defendant was enrolled at the time of the offense does not apply to
- 33 the performance of community service or the receipt of tutoring to
- 34 discharge a fine or costs under Subsection (d)(1).

- 1 SECTION 2.025. Article 42A.655(f), Code of Criminal
- 2 Procedure, is amended to read as follows:
- 3 (f) Notwithstanding any other law, if the court determines
- 4 under this article at any time during a defendant's period of
- 5 community supervision, including deferred adjudication community
- 6 supervision, that the defendant does not have sufficient resources
- 7 or income to make a payment included under Subsection (b), the court
- 8 shall determine whether all or a portion of the payment should be:
- 9 (1) required to be paid at a later date or in a
- 10 specified portion at designated intervals;
- 11 (2) waived completely or partially under Article
- 12 43.091 or 45A.257 [45.0491];
- 13 (3) discharged by performing community service under
- 14 Article 42A.304 or 45A.254 [45.049], as applicable; or
- 15 (4) satisfied through any combination of methods under
- 16 Subdivisions (1)-(3).
- SECTION 2.026. Article 43.03(e), Code of Criminal
- 18 Procedure, is amended to read as follows:
- 19 (e) This article does not apply to a court governed by
- 20 Chapter 45A [45].
- 21 SECTION 2.027. Article 43.09(n), Code of Criminal
- 22 Procedure, is amended to read as follows:
- (n) This article does not apply to a court governed by
- 24 Chapter 45A [45].
- 25 SECTION 2.028. Articles 43.091(a) and (c), Code of Criminal
- 26 Procedure, are amended to read as follows:
- 27 (a) A court may waive payment of all or part of a fine
- 28 imposed on a defendant if the court determines that:
- 29 (1) the defendant is indigent or does not have
- 30 sufficient resources or income to pay all or part of the fine or
- 31 was, at the time the offense was committed, a child as defined by
- 32 Article 45A.453(a) [45.058(h)]; and
- 33 (2) each alternative method of discharging the fine
- 34 under Article 43.09 or 42.15 would impose an undue hardship on the

- 1 defendant.
- 2 (c) A court may waive payment of all or part of the costs
- 3 imposed on a defendant if the court determines that the defendant:
- 4 (1) is indigent or does not have sufficient resources
- 5 or income to pay all or part of the costs; or
- 6 (2) was, at the time the offense was committed, a child
- 7 as defined by Article 45A.453(a) [45.058(h)].
- 8 SECTION 2.029. Article 44.2811, Code of Criminal Procedure,
- 9 is amended to read as follows:
- 10 Art. 44.2811. RECORDS RELATING TO CERTAIN FINE-ONLY
- 11 MISDEMEANORS COMMITTED BY A CHILD. All records and files and
- 12 information stored by electronic means or otherwise, from which a
- 13 record or file could be generated, relating to a criminal case for a
- 14 fine-only misdemeanor, other than a traffic offense, that is
- 15 committed by a child and that is appealed are confidential and may
- 16 not be disclosed to the public except as provided under Article
- 17 45A.462(c) [45.0217(b)].
- 18 SECTION 2.030. Article 44.2812(a), Code of Criminal
- 19 Procedure, is amended to read as follows:
- 20 (a) Except as provided by Subsection (b) and Article
- 21 45A.055(b) [45.0218(b)], following the fifth anniversary of the
- 22 date of a final conviction of, or of a dismissal after deferral of
- 23 disposition for, a misdemeanor offense punishable by fine only, all
- 24 records and files and information stored by electronic means or
- 25 otherwise, from which a record or file could be generated, that are
- 26 held or stored by or for an appellate court and relate to the person
- 27 who was convicted of, or who received a dismissal after deferral of
- 28 disposition for, the offense are confidential and may not be
- 29 disclosed to the public.
- 30 SECTION 2.031. Article 46C.155(b), Code of Criminal
- 31 Procedure, is amended to read as follows:
- 32 (b) A defendant who is found not guilty by reason of
- 33 insanity is not considered to be acquitted for purposes of Chapter
- 34 <u>55A</u> [55].

- 1 SECTION 2.032. Article 56B.251, Code of Criminal Procedure,
- 2 is amended to read as follows:
- 3 Art. 56B.251. DEFINITION. In this subchapter, "peace
- 4 officer" means an individual elected, appointed, or employed to
- 5 serve as a peace officer for a governmental entity under Article
- 6 2A.001 [2.12] or other law. The term includes a former peace
- 7 officer who is entitled to receive payments under this subchapter
- 8 because of an injury suffered while performing duties as a peace
- 9 officer.
- 10 SECTION 2.033. Article 59.06(c-1), Code of Criminal
- 11 Procedure, is amended to read as follows:
- 12 (c-1) Notwithstanding Subsection (a), the attorney
- 13 representing the state and special rangers of the Texas and
- 14 Southwestern Cattle Raisers Association who meet the requirements
- 15 of Article $\underline{2A.006}$ [$\underline{2.125}$] may enter into a local agreement that
- 16 allows the attorney representing the state to transfer proceeds
- 17 from the sale of forfeited property described by Subsection (c),
- 18 after the deduction of court costs as described by that subsection,
- 19 to a special fund established for the special rangers. Proceeds
- 20 transferred under this subsection must be used by the special
- 21 rangers solely for law enforcement purposes. Any expenditures of
- 22 the proceeds are subject to the audit provisions established under
- 23 this article.
- SECTION 2.034. Article 66.105(a), Code of Criminal
- 25 Procedure, is amended to read as follows:
- 26 (a) On receipt of information from a local law enforcement
- 27 agency under Article 2A.061 [2.28], the Department of Public Safety
- 28 shall:
- 29 (1) provide the notice described by Article 2A.061(1)
- [2.28(1)] to the person whose identity was misused, if the local law
- 31 enforcement agency was unable to notify the person under that
- 32 subdivision;
- 33 (2) take action to ensure that the information
- 34 maintained in the computerized criminal history system reflects the

- 1 use of the person's identity as a stolen alias; and
- 2 (3) notify the Texas Department of Criminal Justice
- 3 that the person's identifying information may have been falsely
- 4 used by an inmate in the custody of the Texas Department of Criminal
- 5 Justice.
- 6 SECTION 2.035. Articles 102.006(a-1), (b), and (b-1), Code
- 7 of Criminal Procedure, are amended to read as follows:
- 8 (a-1) In addition to any other fees required by other law
- 9 and except as provided by Subsection (b), a petitioner seeking
- 10 expunction of a criminal record in a justice court or a municipal
- 11 court of record under Chapter 55A [55] shall pay a fee of \$100 for
- 12 filing an ex parte petition for expunction to defray the cost of
- 13 notifying state agencies of orders of expunction under that
- 14 chapter.
- 15 (b) The fees under Subsection (a) or the fee under
- 16 Subsection (a-1), as applicable, shall be waived if the petitioner
- 17 seeks expunction of a criminal record that relates to an arrest for
- 18 an offense of which the person was acquitted, other than an
- 19 acquittal for an offense described by Article 55A.151 [55.01(c)],
- 20 and the petition for expunction is filed not later than the 30th day
- 21 after the date of the acquittal.
- 22 (b-1) The fees under Subsection (a) shall be waived if the
- 23 petitioner is entitled to expunction:
- 24 (1) under Article 55A.053(a)(2)(A)
- 25 [55.01(a)(2)(A)(ii)(a)] after successful completion of a veterans
- 26 treatment court program created under Chapter 124, Government Code,
- 27 or former law; or
- 28 (2) under Article 55A.053(a)(2)(B)
- 29 [55.01(a)(2)(A)(ii)(b)] after successful completion of a mental
- 30 health court program created under Chapter 125, Government Code, or
- 31 former law.
- 32 SECTION 2.036. Section 25.091(c)(2), Education Code, is
- 33 amended to read as follows:
- 34 (2) "Peace officer" has the meaning assigned by

- 1 Article 2A.001 [2.12], Code of Criminal Procedure.
- 2 SECTION 2.037. Section 25.093(c-1), Education Code, is
- 3 amended to read as follows:
- 4 (c-1) Each day the child remains out of school may
- 5 constitute a separate offense. Two or more offenses under
- 6 Subsection (a) may be consolidated and prosecuted in a single
- 7 action. If the court orders deferred disposition under <u>Subchapter</u>
- 8 G, Chapter 45A [Article 45.051], Code of Criminal Procedure, the
- 9 court may require the defendant to provide personal services to a
- 10 charitable or educational institution as a condition of the
- 11 deferral.
- 12 SECTION 2.038. Section 25.0952, Education Code, is amended
- 13 to read as follows:
- 14 Sec. 25.0952. PROCEDURES APPLICABLE TO PARENT CONTRIBUTING
- 15 TO NONATTENDANCE OFFENSE. In a proceeding based on a complaint
- 16 under Section 25.093, the court shall, except as otherwise provided
- 17 by this chapter, use the procedures and exercise the powers
- 18 authorized by Chapter 45A [45], Code of Criminal Procedure.
- 19 SECTION 2.039. Section 37.081(b), Education Code, is
- 20 amended to read as follows:
- 21 (b) In a peace officer's jurisdiction, a peace officer
- 22 commissioned under this section:
- 23 (1) has the powers, privileges, and immunities of
- 24 peace officers;
- 25 (2) may enforce all laws, including municipal
- 26 ordinances, county ordinances, and state laws;
- 27 (3) may, in accordance with Chapter 52, Family Code,
- 28 or Article 45A.453 [45.058], Code of Criminal Procedure, take a
- 29 child into custody; and
- 30 (4) may dispose of cases in accordance with Section
- 31 52.03 or 52.031, Family Code.
- 32 SECTION 2.040. Section 37.146, Education Code, is amended
- 33 to read as follows:
- 34 Sec. 37.146. REQUISITES OF COMPLAINT. (a) A complaint

- 1 alleging the commission of a school offense must, in addition to the
- 2 requirements imposed by Article 45A.101 [45.019], Code of Criminal
- 3 Procedure:
- 4 (1) be sworn to by a person who has personal knowledge
- 5 of the underlying facts giving rise to probable cause to believe
- 6 that an offense has been committed; and
- 7 (2) be accompanied by a statement from a school
- 8 employee stating:
- 9 (A) whether the child is eligible for or receives
- 10 special services under Subchapter A, Chapter 29; and
- 11 (B) the graduated sanctions, if required under
- 12 Section 37.144, that were imposed on the child before the complaint
- 13 was filed.
- 14 (b) After a complaint has been filed under this subchapter,
- 15 a summons may be issued under Articles 23.04 and 45A.457(e)
- 16 [45.057(e)], Code of Criminal Procedure.
- 17 (c) A complaint under this subchapter may include a
- 18 recommendation by a school employee that the child attend a teen
- 19 court program under Article 45A.401 [45.052], Code of Criminal
- 20 Procedure, if the school employee believes attending a teen court
- 21 program is in the best interest of the child.
- SECTION 2.041. Section 61.9951, Education Code, is amended
- 23 to read as follows:
- Sec. 61.9951. DEFINITION. In this subchapter, "peace
- officer" has the meaning assigned by Article 2A.001 [2.12], Code of
- 26 Criminal Procedure.
- SECTION 2.042. Section 1001.002(a), Education Code, is
- 28 amended to read as follows:
- 29 (a) An organization is exempt from this chapter if the
- 30 organization:
- 31 (1) has 50,000 or more members;
- 32 (2) qualifies for a tax exemption under Section
- 33 501(a), Internal Revenue Code of 1986, as an organization described
- 34 by Section 501(c)(4) of that code; and

- 1 (3) conducts for its members and other individuals who
- 2 are at least 50 years of age a driving safety course that is not used
- 3 for purposes of <u>Subchapter H, Chapter 45A</u> [Article 45.0511], Code
- 4 of Criminal Procedure.
- 5 SECTION 2.043. Section 1001.151(b), Education Code, is
- 6 amended to read as follows:
- 7 (b) The commission by rule shall establish a fee for:
- 8 (1) an initial in-person driver education provider
- 9 license and for each branch location;
- 10 (2) an initial online driver education provider
- 11 license;
- 12 (3) an initial parent-taught driver education
- 13 provider license;
- 14 (4) an initial driving safety provider license;
- 15 (5) the annual renewal for a driving safety provider,
- 16 driver education provider, or branch location of an in-person
- 17 driver education provider, except that the executive director may
- 18 waive the fee if revenue generated by the issuance of course
- 19 completion certificate numbers and driver education certificates
- 20 is sufficient to cover the cost of administering this chapter and
- 21 Subchapter H, Chapter 45A [Article 45.0511], Code of Criminal
- 22 Procedure;
- 23 (6) a change of address of a driver education provider
- 24 or driving safety provider; and
- 25 (7) a change of name of:
- 26 (A) a driver education provider or an owner of a
- 27 driver education provider; or
- 28 (B) a driving safety provider or an owner of a
- 29 driving safety provider.
- 30 SECTION 2.044. Section 1001.453(a), Education Code, is
- 31 amended to read as follows:
- 32 (a) A person may not distribute within 500 feet of a court
- 33 with jurisdiction over an offense to which Subchapter H, Chapter
- 34 45A [Article 45.0511], Code of Criminal Procedure, applies written

- 1 information that advertises a driving safety provider.
- 2 SECTION 2.045. Section 13.004(c), Election Code, is amended
- 3 to read as follows:
- 4 (c) The following information furnished on a registration
- 5 application is confidential and does not constitute public
- 6 information for purposes of Chapter 552, Government Code:
- 7 (1) a social security number;
- 8 (2) a Texas driver's license number;
- 9 (3) a number of a personal identification card issued
- 10 by the Department of Public Safety;
- 11 (4) the residence address of the applicant, if the
- 12 applicant is a federal judge, including a federal bankruptcy judge,
- 13 a marshal of the United States Marshals Service, a United States
- 14 attorney, or a state judge, a family member of a federal judge,
- 15 including a federal bankruptcy judge, a marshal of the United
- 16 States Marshals Service, a United States attorney, or a state
- 17 judge, the spouse of a peace officer as defined by Article 2A.001
- 18 $[\frac{2.12}{}]$, Code of Criminal Procedure, or an individual to whom
- 19 Section 552.1175, Government Code, or Section 521.1211,
- 20 Transportation Code, applies and the applicant:
- 21 (A) included an affidavit with the registration
- 22 application describing the applicant's status under this
- 23 subdivision, if the applicant is a federal judge, including a
- 24 federal bankruptcy judge, a marshal of the United States Marshals
- 25 Service, a United States attorney, or a state judge or a family
- 26 member of a federal judge, including a federal bankruptcy judge, a
- 27 marshal of the United States Marshals Service, a United States
- 28 attorney, or a state judge;
- 29 (B) provided the registrar with an affidavit
- 30 describing the applicant's status under this subdivision, if the
- 31 applicant is a federal judge, including a federal bankruptcy judge,
- 32 a marshal of the United States Marshals Service, a United States
- 33 attorney, or a state judge or a family member of a federal judge,
- 34 including a federal bankruptcy judge, a marshal of the United

- 1 States Marshals Service, a United States attorney, or a state
- 2 judge; or
- 3 (C) provided the registrar with a completed form
- 4 approved by the secretary of state for the purpose of notifying the
- 5 registrar of the applicant's status under this subdivision;
- 6 (5) the residence address of the applicant, if the
- 7 applicant, the applicant's child, or another person in the
- 8 applicant's household is a victim of family violence as defined by
- 9 Section 71.004, Family Code, who provided the registrar with:
- 10 (A) a copy of a protective order issued under
- 11 Chapter 85, Family Code, or a magistrate's order for emergency
- 12 protection issued under Article 17.292, Code of Criminal Procedure;
- 13 or
- 14 (B) other independent documentary evidence
- 15 necessary to show that the applicant, the applicant's child, or
- 16 another person in the applicant's household is a victim of family
- 17 violence;
- 18 (6) the residence address of the applicant, if the
- 19 applicant, the applicant's child, or another person in the
- 20 applicant's household is a victim of sexual assault or abuse,
- 21 stalking, or trafficking of persons who provided the registrar
- 22 with:
- (A) a copy of a protective order issued under
- 24 Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a
- 25 magistrate's order for emergency protection issued under Article
- 26 17.292, Code of Criminal Procedure; or
- 27 (B) other independent documentary evidence
- 28 necessary to show that the applicant, the applicant's child, or
- 29 another person in the applicant's household is a victim of sexual
- 30 assault or abuse, stalking, or trafficking of persons;
- 31 (7) the residence address of the applicant, if the
- 32 applicant:
- 33 (A) is a participant in the address
- 34 confidentiality program administered by the attorney general under

- 1 Subchapter B, Chapter 58, Code of Criminal Procedure; and
- 2 (B) provided the registrar with proof of
- 3 certification under Article 58.059, Code of Criminal Procedure; or
- 4 (8) the telephone number of any applicant submitting
- 5 documentation under Subdivision (4), (5), (6), or (7).
- 6 SECTION 2.046. Section 51.02(7), Family Code, is amended to
- 7 read as follows:
- 8 (7) "Law-enforcement officer" means a peace officer as
- 9 defined by Article 2A.001 [2.12], Code of Criminal Procedure.
- SECTION 2.047. Section 51.08(d), Family Code, is amended to
- 11 read as follows:
- 12 (d) A court that has implemented a juvenile case manager
- 13 program under Article 45A.451 [45.056], Code of Criminal Procedure,
- 14 may, but is not required to, waive its original jurisdiction under
- 15 Subsection (b)(1)(B).
- SECTION 2.048. Section 51.12(a), Family Code, is amended to
- 17 read as follows:
- 18 (a) Except as provided by Subsection (h), a child may be
- 19 detained only in a:
- 20 (1) juvenile processing office in compliance with
- 21 Section 52.025;
- 22 (2) place of nonsecure custody in compliance with
- 23 Article 45A.453 [45.058], Code of Criminal Procedure;
- 24 (3) certified juvenile detention facility that
- 25 complies with the requirements of Subsection (f);
- 26 (4) secure detention facility as provided by
- 27 Subsection (j);
- 28 (5) county jail or other facility as provided by
- 29 Subsection (1); or
- 30 (6) nonsecure correctional facility as provided by
- 31 Subsection (j-1).
- 32 SECTION 2.049. Section 65.017, Family Code, is amended to
- 33 read as follows:
- 34 Sec. 65.017. JUVENILE CASE MANAGERS. A truancy court may

- 1 employ a juvenile case manager in accordance with Article 45A.451
- 2 [45.056], Code of Criminal Procedure, to provide services to
- 3 children who have been referred to the truancy court or who are in
- 4 jeopardy of being referred to the truancy court.
- 5 SECTION 2.050. Sections 261.301(f) and (h), Family Code,
- 6 are amended to read as follows:
- 7 (f) An investigation of a report to the department that
- 8 alleges that a child has been or may be the victim of conduct that
- 9 constitutes a criminal offense that poses an immediate risk of
- 10 physical or sexual abuse of a child that could result in the death
- 11 of or serious harm to the child shall be conducted jointly by a
- 12 peace officer, as defined by Article 2A.001 [2.12], Code of
- 13 Criminal Procedure, from the appropriate local law enforcement
- 14 agency and the department or the agency responsible for conducting
- 15 an investigation under Subchapter E.
- 16 (h) The department and the appropriate local law
- 17 enforcement agency shall conduct an investigation, other than an
- 18 investigation under Subchapter E, as provided by this section and
- 19 Article 2A.057 [2.27], Code of Criminal Procedure, if the
- 20 investigation is of a report that alleges that a child has been or
- 21 may be the victim of conduct that constitutes a criminal offense
- 22 that poses an immediate risk of physical or sexual abuse of a child
- 23 that could result in the death of or serious harm to the child.
- 24 Immediately on receipt of a report described by this subsection,
- 25 the department shall notify the appropriate local law enforcement
- 26 agency of the report.
- 27 SECTION 2.051. Section 261.3023, Family Code, is amended to
- 28 read as follows:
- Sec. 261.3023. LAW ENFORCEMENT RESPONSE TO CHILD SAFETY
- 30 CHECK ALERT. If a law enforcement officer encounters a child or
- 31 other person listed on the Texas Crime Information Center's child
- 32 safety check alert list, the law enforcement officer shall follow
- 33 the procedures described by Article 2A.056 [2.272], Code of
- 34 Criminal Procedure.

- 1 SECTION 2.052. Sections 261.3024(a) and (b), Family Code,
- 2 are amended to read as follows:
- 3 (a) A law enforcement officer who locates a child listed on
- 4 the Texas Crime Information Center's child safety check alert list
- 5 shall report that the child has been located in the manner
- 6 prescribed by Article 2A.056 [2.272], Code of Criminal Procedure.
- 7 (b) If the department locates a child who has been placed on
- 8 the child safety check alert list established under Section
- 9 261.3022 through a means other than information reported to the
- 10 department by a law enforcement officer under Article 2A.056
- 11 [2.272], Code of Criminal Procedure, the department shall report to
- 12 the Texas Crime Information Center that the child has been located.
- SECTION 2.053. Section 264.302(e), Family Code, is amended
- 14 to read as follows:
- 15 (e) The department shall provide services for a child and
- 16 the child's family if a contract to provide services under this
- 17 section is available in the county and the child is referred to the
- 18 department as an at-risk child by:
- 19 (1) a juvenile court or probation department as part
- 20 of a progressive sanctions program under Chapter 59;
- 21 (2) a law enforcement officer or agency under Section
- 22 52.03; or
- 23 (3) a justice or municipal court under Article 45A.457
- 24 [45.057], Code of Criminal Procedure.
- SECTION 2.054. Section 25.0732(z), Government Code, is
- 26 amended to read as follows:
- 27 (z) The County Criminal Courts No. 1, No. 2, No. 3, and
- 28 No. 4 have the criminal jurisdiction provided by this section and
- 29 other law for statutory county courts in El Paso County and
- 30 appellate jurisdiction in appeals of criminal cases from justice
- 31 courts and municipal courts in the county as provided by Article
- 32 45A.202 [45.042], Code of Criminal Procedure. The County Criminal
- 33 Court No. 4 shall give preference to cases prosecuted under:
- 34 (1) Section 22.01, Penal Code, in which the victim is a

- 1 person whose relationship to or association with the defendant is
- 2 described under Chapter 71, Family Code; and
- 3 (2) Section 25.07, Penal Code.
- 4 SECTION 2.055. Section 25.2422(a), Government Code, is
- 5 amended to read as follows:
- 6 (a) In addition to the jurisdiction provided by Section
- 7 25.0003 and other law, a county court at law in Webb County has
- 8 concurrent jurisdiction with the district court in:
- 9 (1) family law cases and proceedings;
- 10 (2) cases and proceedings involving justiciable
- 11 controversies and differences between spouses, or between parents,
- 12 or between parent and child, or between any of these and third
- 13 persons; and
- 14 (3) proceedings to expunge a criminal arrest record
- 15 under Chapter 55A [55], Code of Criminal Procedure.
- SECTION 2.056. Section 30.00011, Government Code, is
- 17 amended to read as follows:
- 18 Sec. 30.00011. PROSECUTIONS. All prosecutions in municipal
- 19 courts of record shall be conducted as provided by Article 45A.005
- 20 [45.03], Code of Criminal Procedure.
- SECTION 2.057. Section 30.00013(a), Government Code, is
- 22 amended to read as follows:
- 23 (a) Ordinances, rules, and procedures concerning a trial by
- 24 a jury, including the summoning of jurors, must substantially
- 25 conform to Chapter 45A [45], Code of Criminal Procedure.
- SECTION 2.058. Section 30.001845(a), Government Code, is
- 27 amended to read as follows:
- 28 (a) The governing body may appoint one or more magistrates
- 29 in addition to magistrates provided under Article 2A.151 [2.09],
- 30 Code of Criminal Procedure.
- 31 SECTION 2.059. Section 30.004945(a), Government Code, is
- 32 amended to read as follows:
- 33 (a) The governing body may appoint one or more magistrates
- 34 in addition to magistrates provided under Article 2A.151 [2.09],

- 1 Code of Criminal Procedure.
- 2 SECTION 2.060. Section 30.00635(a), Government Code, is
- 3 amended to read as follows:
- 4 (a) The governing body may appoint one or more magistrates
- 5 in addition to magistrates provided under Article 2A.151 [2.09],
- 6 Code of Criminal Procedure.
- 7 SECTION 2.061. Section 30.01255(a), Government Code, is
- 8 amended to read as follows:
- 9 (a) The governing body may appoint one or more magistrates
- 10 in addition to magistrates provided under Article 2A.151 [2.09],
- 11 Code of Criminal Procedure.
- 12 SECTION 2.062. Section 30.01542(a), Government Code, is
- 13 amended to read as follows:
- 14 (a) The governing body may appoint one or more magistrates
- 15 in addition to magistrates provided under Article 2A.151 [2.09],
- 16 Code of Criminal Procedure.
- SECTION 2.063. Section 51.1045(a), Government Code, is
- 18 amended to read as follows:
- 19 (a) In this section, "digital multimedia evidence" has the
- 20 meaning assigned by Article 2A.153 [2.21], Code of Criminal
- 21 Procedure.
- SECTION 2.064. Section 53.0071, Government Code, is amended
- 23 to read as follows:
- Sec. 53.0071. BAILIFF AS PEACE OFFICER. Unless the
- 25 appointing judge provides otherwise in the order of appointment, a
- 26 bailiff appointed under Section 53.001(b), (g), (k), or (m) or
- 27 53.002(c), (e), or (f) is a "peace officer" for purposes of Article
- 28 2A.001 [2.12], Code of Criminal Procedure.
- SECTION 2.065. Section 54.1955(a), Government Code, is
- 30 amended to read as follows:
- 31 (a) Except as limited by an order of the county judge, a
- 32 magistrate appointed under this subchapter may:
- 33 (1) conduct hearings;
- 34 (2) hear evidence;

- 1 (3) issue summons for the appearance of witnesses;
- 2 (4) examine witnesses;
- 3 (5) swear witnesses for hearings;
- 4 (6) recommend rulings or orders or a judgment in a
- 5 case;
- 6 (7) regulate proceedings in a hearing;
- 7 (8) accept a plea of guilty or nolo contendere in a
- 8 case alleging a violation of Section 25.093, Education Code, and
- 9 assess a fine or court costs or order community service in
- 10 satisfaction of a fine or costs in accordance with Article 45A.254
- 11 [45.049], Code of Criminal Procedure;
- 12 (9) for a violation of Section 25.093, Education Code,
- 13 enter an order suspending a sentence or deferring a final
- 14 disposition that includes at least one of the requirements listed
- 15 in Subchapter G, Chapter 45A [Article 45.051], Code of Criminal
- 16 Procedure;
- 17 (10) for an uncontested adjudication of truant conduct
- 18 under Section 65.003, Family Code, accept a plea to the petition or
- 19 a stipulation of evidence, and take any other action authorized
- 20 under Chapter 65, Family Code; and
- 21 (11) perform any act and take any measure necessary
- 22 and proper for the efficient performance of the duties required by
- 23 the referral order, including the entry of an order that includes at
- 24 least one of the remedial options in Section 65.103, Family Code.
- SECTION 2.066. Section 54.2205(a), Government Code, is
- 26 amended to read as follows:
- 27 (a) The judge of a district court or county court at law or a
- 28 justice of the peace may refer to a magistrate any case or matter
- 29 relating to a case for proceedings involving:
- 30 (1) a negotiated plea of guilty or no contest and
- 31 sentencing before the court;
- 32 (2) a bond forfeiture, remittitur, and related
- 33 proceedings;
- 34 (3) a pretrial motion;

- 1 (4) a writ of habeas corpus;
- 2 (5) an examining trial;
- 3 (6) an occupational driver's license;
- 4 (7) a petition for an order of expunction under
- 5 Chapter <u>55A</u> [55], Code of Criminal Procedure;
- 6 (8) an asset forfeiture hearing as provided by Chapter
- 7 59, Code of Criminal Procedure;
- 8 (9) a petition for an order of nondisclosure of
- 9 criminal history record information or an order of nondisclosure of
- 10 criminal history record information that does not require a
- 11 petition provided by Subchapter E-1, Chapter 411;
- 12 (10) a motion to modify or revoke community
- 13 supervision or to proceed with an adjudication of guilt;
- 14 (11) setting conditions, modifying, revoking, and
- 15 surrendering of bonds, including surety bonds;
- 16 (12) specialty court proceedings;
- 17 (13) a waiver of extradition;
- 18 (14) selection of a jury; and
- 19 (15) any other matter the judge or justice of the peace
- 20 considers necessary and proper.
- SECTION 2.067. Section 54.2405(a), Government Code, is
- 22 amended to read as follows:
- 23 (a) The judge of a district court or county court at law or a
- 24 justice of the peace may refer to a magistrate any case or matter
- 25 relating to a case for proceedings involving:
- 26 (1) a negotiated plea of guilty or no contest and
- 27 sentencing before the court;
- 28 (2) a bond forfeiture, remittitur, and related
- 29 proceedings;
- 30 (3) a pretrial motion;
- 31 (4) a writ of habeas corpus;
- 32 (5) an examining trial;
- 33 (6) an occupational driver's license;
- 34 (7) a petition for an order of expunction under

- 1 Chapter 55A [55], Code of Criminal Procedure;
- 2 (8) an asset forfeiture hearing as provided by Chapter
- 3 59, Code of Criminal Procedure;
- 4 (9) a petition for an order of nondisclosure of
- 5 criminal history record information or an order of nondisclosure of
- 6 criminal history record information that does not require a
- 7 petition provided by Subchapter E-1, Chapter 411;
- 8 (10) a motion to modify or revoke community
- 9 supervision or to proceed with an adjudication of guilt;
- 10 (11) setting conditions, modifying, revoking, and
- 11 surrendering of bonds, including surety bonds;
- 12 (12) specialty court proceedings;
- 13 (13) a waiver of extradition;
- 14 (14) selection of a jury; and
- 15 (15) any other matter the judge or justice of the peace
- 16 considers necessary and proper.
- SECTION 2.068. Section 54.2503(b), Government Code, is
- 18 amended to read as follows:
- 19 (b) The criminal law magistrate court has the jurisdiction
- 20 provided by the constitution and laws of this state for
- 21 magistrates. A judge of the criminal law magistrate court is a
- 22 magistrate as [that term is] defined by Article 2A.151 [2.09], Code
- 23 of Criminal Procedure.
- SECTION 2.069. Section 54.2606(a), Government Code, is
- 25 amended to read as follows:
- 26 (a) A judge may refer to a magistrate any criminal case or
- 27 matter relating to a criminal case for proceedings involving:
- 28 (1) a negotiated plea of guilty or no contest and
- 29 sentencing before the court;
- 30 (2) a bond forfeiture, remittitur, and related
- 31 proceedings;
- 32 (3) a pretrial motion;
- 33 (4) a writ of habeas corpus;
- 34 (5) an examining trial;

- 1 (6) an occupational driver's license;
- 2 (7) a petition for an order of expunction under
- 3 Chapter 55A [55], Code of Criminal Procedure;
- 4 (8) an asset forfeiture hearing as provided by Chapter
- 5 59, Code of Criminal Procedure;
- 6 (9) a petition for an order of nondisclosure of
- 7 criminal history record information or an order of nondisclosure of
- 8 criminal history record information that does not require a
- 9 petition provided by Subchapter E-1, Chapter 411;
- 10 (10) a motion to modify or revoke community
- 11 supervision or to proceed with an adjudication of guilty;
- 12 (11) setting conditions, modifying, revoking, and
- 13 surrendering of bonds, including surety bonds;
- 14 (12) specialty court proceedings;
- 15 (13) a waiver of extradition; and
- 16 (14) any other matter the judge considers necessary
- 17 and proper.
- SECTION 2.070. Section 54.656(a), Government Code, is
- 19 amended to read as follows:
- 20 (a) A judge may refer to a magistrate any criminal case or
- 21 matter relating to a criminal case for proceedings involving:
- (1) a negotiated plea of guilty or no contest and
- 23 sentencing before the court;
- 24 (2) a bond forfeiture, remittitur, and related
- 25 proceedings;
- 26 (3) a pretrial motion;
- 27 (4) a writ of habeas corpus;
- 28 (5) an examining trial;
- 29 (6) an occupational driver's license;
- 30 (7) a petition for an order of expunction under
- 31 Chapter 55A [55], Code of Criminal Procedure;
- 32 (8) an asset forfeiture hearing as provided by Chapter
- 33 59, Code of Criminal Procedure;
- 34 (9) a petition for an order of nondisclosure of

- 1 criminal history record information or an order of nondisclosure of
- 2 criminal history record information that does not require a
- 3 petition provided by Subchapter E-1, Chapter 411;
- 4 (10) a motion to modify or revoke community
- 5 supervision or to proceed with an adjudication of guilt;
- 6 (11) setting conditions, modifying, revoking, and
- 7 surrendering of bonds, including surety bonds;
- 8 (12) specialty court proceedings;
- 9 (13) a waiver of extradition; and
- 10 (14) any other matter the judge considers necessary
- 11 and proper.
- 12 SECTION 2.071. Section 54.733(c), Government Code, is
- 13 amended to read as follows:
- 14 (c) The criminal law magistrate court has the jurisdiction
- 15 provided by the constitution and laws of this state for
- 16 magistrates. A judge of the criminal law magistrate court is a
- 17 magistrate as [that term is] defined by Article 2A.151 [Section
- 18 $\frac{2.09}{1}$, Code of Criminal Procedure.
- 19 SECTION 2.072. Section 71.034(e), Government Code, is
- 20 amended to read as follows:
- 21 (e) In addition to the information described by Subsection
- 22 (a), the council shall include in the report a summary of
- 23 information provided to the council during the preceding year under
- 24 Articles 2A.211 [2.211] and 2A.212 [2.212], Code of Criminal
- 25 Procedure.
- SECTION 2.073. Section 71.0352, Government Code, is amended
- 27 to read as follows:
- Sec. 71.0352. JUVENILE DATA: JUSTICE, MUNICIPAL, AND
- 29 TRUANCY COURTS. As a component of the official monthly report
- 30 submitted to the Office of Court Administration of the Texas
- 31 Judicial System:
- 32 (1) a justice court, municipal court, or truancy court
- 33 shall report the number of cases filed for:
- 34 (A) truant conduct under Section 65.003(a),

- 1 Family Code;
- 2 (B) the offense of parent contributing to
- 3 nonattendance under Section 25.093, Education Code; and
- 4 (C) a violation of a local daytime curfew
- 5 ordinance adopted under Section 341.905 or 351.903, Local
- 6 Government Code; and
- 7 (2) in cases in which a child fails to obey an order of
- 8 a justice court, municipal court, or truancy court under
- 9 circumstances that would constitute contempt of court, the justice
- 10 court, municipal court, or truancy court shall report the number of
- 11 incidents in which the child is:
- 12 (A) referred to the appropriate juvenile court
- 13 for delinquent conduct as provided by Article 45A.461(c)(1)
- 14 [45.050(c)(1)], Code of Criminal Procedure, or Section 65.251,
- 15 Family Code; or
- 16 (B) held in contempt, fined, or denied driving
- 17 privileges as provided by Article $45A.461(c)(2) \left[\frac{45.050(c)(2)}{2}\right]$,
- 18 Code of Criminal Procedure, or Section 65.251, Family Code.
- 19 SECTION 2.074. Section 72.151(2), Government Code, is
- 20 amended to read as follows:
- 21 (2) "Peace officer" has the meaning assigned by
- 22 Article 2A.001 [2.12], Code of Criminal Procedure.
- SECTION 2.075. Section 75.404(g), Government Code, is
- 24 amended to read as follows:
- 25 (g) The justices of the peace in Harris County may adopt
- 26 local rules:
- 27 (1) that are consistent with Chapter 45A [45], Code of
- 28 Criminal Procedure, and Part V, Texas Rules of Civil Procedure, for
- 29 practice and procedure in the justice courts of Harris County; and
- 30 (2) for practice and procedure in the small claims
- 31 courts of Harris County.
- 32 SECTION 2.076. Section 124.001(b), Government Code, is
- 33 amended to read as follows:
- 34 (b) If a defendant who was arrested for or charged with, but

- 1 not convicted of or placed on deferred adjudication community
- 2 supervision for, an offense successfully completes a veterans
- 3 treatment court program, after notice to the attorney representing
- 4 the state and a hearing in the veterans treatment court at which
- 5 that court determines that a dismissal is in the best interest of
- 6 justice, the veterans treatment court shall provide to the court in
- 7 which the criminal case is pending information about the dismissal
- 8 and shall include all of the information required about the
- 9 defendant for a petition for expunction under Article 55A.253
- 10 [Section 2(b), Article 55.02], Code of Criminal Procedure. The
- 11 court in which the criminal case is pending shall dismiss the case
- 12 against the defendant and:
- 13 (1) if that trial court is a district court, the court
- 14 may, with the consent of the attorney representing the state, enter
- 15 an order of expunction on behalf of the defendant under Article
- 16 55A.203(a) [Section la(a-1), Article 55.02], Code of Criminal
- 17 Procedure; or
- 18 (2) if that trial court is not a district court, the
- 19 court may, with the consent of the attorney representing the state,
- 20 forward the appropriate dismissal and expunction information to
- 21 enable a district court with jurisdiction to enter an order of
- 22 expunction on behalf of the defendant under Article 55A.203(a)
- 23 [Section la(a-1), Article 55.02], Code of Criminal Procedure.
- SECTION 2.077. Section 125.001(b), Government Code, is
- 25 amended to read as follows:
- 26 (b) If a defendant successfully completes a mental health
- 27 court program, after notice to the attorney representing the state
- 28 and a hearing in the mental health court at which that court
- 29 determines that a dismissal is in the best interest of justice, the
- 30 mental health court shall provide to the court in which the criminal
- 31 case is pending information about the dismissal and shall include
- 32 all of the information required about the defendant for a petition
- 33 for expunction under Article 55A.253 [Section 2(b), Article 55.02],
- 34 Code of Criminal Procedure. The court in which the criminal case is

- 1 pending shall dismiss the case against the defendant and:
- 2 (1) if that trial court is a district court, the court
- 3 may, with the consent of the attorney representing the state, enter
- 4 an order of expunction on behalf of the defendant under Article
- 5 55A.203(b) [Section la(a-2), Article 55.02], Code of Criminal
- 6 Procedure; or
- 7 (2) if that trial court is not a district court, the
- 8 court may, with the consent of the attorney representing the state,
- 9 forward the appropriate dismissal and expunction information to
- 10 enable a district court with jurisdiction to enter an order of
- 11 expunction on behalf of the defendant under Article 55A.203(b)
- 12 [Section 1a(a-2), Article 55.02], Code of Criminal Procedure.
- SECTION 2.078. Section 125.003(b), Government Code, is
- 14 amended to read as follows:
- 15 (b) The issues shall be handled by a magistrate, as
- 16 designated by Article 2A.151 [2.09], Code of Criminal Procedure,
- 17 who is part of a mental health court program established under
- 18 Section 125.002.
- 19 SECTION 2.079. Section 402.0241(b), Government Code, is
- 20 amended to read as follows:
- 21 (b) The attorney general shall defend a local entity in any
- 22 action in any court if:
- 23 (1) the executive head or governing body, as
- 24 applicable, of the local entity requests the attorney general's
- 25 assistance in the defense; and
- 26 (2) the attorney general determines that the cause of
- 27 action arises out of a claim involving the local entity's
- 28 good-faith compliance with an immigration detainer request
- 29 required by Article 2A.060 [2.251], Code of Criminal Procedure.
- 30 SECTION 2.080. Section 402.028(c), Government Code, is
- 31 amended to read as follows:
- 32 (c) Nothing in this section shall prohibit an assistant
- 33 attorney general from appointment as attorney pro tem under the
- 34 provisions of Article 2A.104 [2.07], Code of Criminal Procedure.

- 1 SECTION 2.081. Section 406.014(d), Government Code, is
- 2 amended to read as follows:
- 3 (d) A notary public who administers an oath pursuant to
- 4 Article 45A.101 [45.019], Code of Criminal Procedure, is exempt
- 5 from the requirement in Subsection (a) of this section of recording
- 6 that oath.
- 7 SECTION 2.082. Section 411.0207(b), Government Code, is
- 8 amended to read as follows:
- 9 (b) A public corruption unit is created within the
- 10 department to investigate and assist in the management of
- 11 allegations of participation in organized criminal activity by:
- 12 (1) an individual elected, appointed, or employed to
- 13 serve as a peace officer for a governmental entity of this state
- 14 under Article 2A.001 [2.12], Code of Criminal Procedure; or
- 15 (2) a federal law enforcement officer while performing
- 16 duties in this state.
- SECTION 2.083. Section 411.0208(a), Government Code, is
- 18 amended to read as follows:
- 19 (a) The commission may provide for the establishment of a
- 20 reserve officer corps consisting of retired or previously
- 21 commissioned peace officers, as defined by Article 2A.001 $[\frac{2.12}{2}]$,
- 22 Code of Criminal Procedure, who retired or resigned in good
- 23 standing.
- SECTION 2.084. Section 411.0253(d), Government Code, is
- 25 amended to read as follows:
- 26 (d) If an initial investigation by the public integrity unit
- 27 demonstrates a reasonable suspicion that an offense against public
- 28 administration occurred, the matter shall be referred to the
- 29 prosecuting attorney of the county in which venue is proper under
- 30 Section 411.0256 of this code or Chapter 13A $[\frac{13}{2}]$, Code of Criminal
- 31 Procedure, as applicable.
- 32 SECTION 2.085. Section 411.0255(b-2), Government Code, is
- 33 amended to read as follows:
- 34 (b-2) The public integrity unit shall inform the judge of

- 1 the court with jurisdiction over a complaint if the prosecuting
- 2 attorney is disqualified for purposes of Article 2A.104 [2.07],
- 3 Code of Criminal Procedure, because the prosecuting attorney is the
- 4 subject of a criminal investigation under this subchapter based on
- 5 credible evidence of criminal misconduct. On showing that the
- 6 prosecuting attorney is the subject of the investigation, the judge
- 7 shall order the prosecuting attorney disqualified under Article
- 8 2A.105 [2.08], Code of Criminal Procedure.
- 9 SECTION 2.086. Section 411.0256, Government Code, is
- 10 amended to read as follows:
- Sec. 411.0256. VENUE. Notwithstanding Chapter 13A [13],
- 12 Code of Criminal Procedure, or other law, if the defendant is a
- 13 natural person, venue for prosecution of an offense against public
- 14 administration and lesser included offenses arising from the same
- 15 transaction is the county in which the defendant resided at the time
- 16 the offense was committed.
- SECTION 2.087. Section 411.0835, Government Code, is
- 18 amended to read as follows:
- 19 Sec. 411.0835. PROHIBITION AGAINST DISSEMINATION TO
- 20 CERTAIN PRIVATE ENTITIES. If the department receives information
- 21 indicating that a private entity that purchases criminal history
- 22 record information from the department has been found by a court to
- 23 have committed three or more violations of Section 552.1425 by
- 24 compiling or disseminating information with respect to which an
- 25 order of expunction has been issued under Subchapter E or F, Chapter
- 26 55A [Article 55.02], Code of Criminal Procedure, or an order of
- 27 nondisclosure of criminal history record information has been
- 28 issued under Subchapter E-1 of this chapter, the department may not
- 29 release any criminal history record information to that entity
- 30 until the first anniversary of the date of the most recent
- 31 violation.
- 32 SECTION 2.088. Section 411.0851(a), Government Code, is
- 33 amended to read as follows:
- 34 (a) A private entity that compiles and disseminates for

- 1 compensation criminal history record information shall destroy and
- 2 may not disseminate any information in the possession of the entity
- 3 with respect to which the entity has received notice that:
- 4 (1) an order of expunction has been issued under
- 5 Subchapter E or F, Chapter 55A [Article 55.02], Code of Criminal
- 6 Procedure; or
- 7 (2) an order of nondisclosure of criminal history
- 8 record information has been issued under Subchapter E-1 of this
- 9 chapter.
- SECTION 2.089. Sections 411.151(a) and (b), Government
- 11 Code, are amended to read as follows:
- 12 (a) The director shall expunge a DNA record of an individual
- 13 from a DNA database if the person:
- 14 (1) notifies the director in writing that the DNA
- 15 record has been ordered to be expunged under this section or Chapter
- 16 $\underline{55A}$ [$\underline{55}$], Code of Criminal Procedure, and provides the director
- 17 with a certified copy of the court order that expunges the DNA
- 18 record; or
- 19 (2) provides the director with a certified copy of a
- 20 court order issued under Subchapter C-1, Chapter 58, Family Code,
- 21 that seals the juvenile record of the adjudication that resulted in
- 22 the DNA record.
- (b) A person may obtain [petition for] the expunction of a
- 24 DNA record under the procedures established under Subchapter E or
- 25 F, Chapter 55A [Article 55.02], Code of Criminal Procedure, as
- 26 applicable, if the person is entitled to the expunction of records
- 27 relating to the offense to which the DNA record is related under
- 28 Subchapter A, B, or C, Chapter 55A [Article 55.01], Code of Criminal
- 29 Procedure.
- 30 SECTION 2.090. Section 411.199(a), Government Code, is
- 31 amended to read as follows:
- 32 (a) The following peace officers may apply for a license
- 33 issued under this subchapter at any time after retirement:
- 34 (1) a person who is licensed as a peace officer under

- 1 Chapter 1701, Occupations Code, and who has been employed full-time
- 2 as a peace officer by a law enforcement agency;
- 3 (2) a railroad peace officer appointed by the director
- 4 under Article 2A.005 [2.121], Code of Criminal Procedure, who holds
- 5 a certificate of authority issued by the director under that
- 6 article and a peace officer license issued by the Texas Commission
- 7 on Law Enforcement; or
- 8 (3) a special ranger of the Texas and Southwestern
- 9 Cattle Raisers Association appointed by the director under Article
- 10 2A.006 [2.125], Code of Criminal Procedure, who holds a certificate
- 11 of authority issued by the director under that article and a peace
- 12 officer license issued by the Texas Commission on Law Enforcement.
- SECTION 2.091. Section 411.1991(a), Government Code, is
- 14 amended to read as follows:
- 15 (a) A person may apply for a license issued under this
- 16 subchapter if the person is:
- 17 (1) licensed as a peace officer under Chapter 1701,
- 18 Occupations Code, and employed as a peace officer by a law
- 19 enforcement agency;
- 20 (2) a railroad peace officer appointed by the director
- 21 under Article 2A.005 [2.121], Code of Criminal Procedure, who holds
- 22 a certificate of authority issued by the director under that
- 23 article and a peace officer license issued by the Texas Commission
- 24 on Law Enforcement;
- 25 (3) a special ranger of the Texas and Southwestern
- 26 Cattle Raisers Association appointed by the director under Article
- 27 2A.006 [2.125], Code of Criminal Procedure, who holds a certificate
- 28 of authority issued by the director under that article and a peace
- 29 officer license issued by the Texas Commission on Law Enforcement;
- 30 or
- 31 (4) a member of the Texas military forces, excluding
- 32 Texas State Guard members who are serving in the Texas Legislature.
- 33 SECTION 2.092. Section 411.254(b), Government Code, is
- 34 amended to read as follows:

- 1 (b) The inspector general is not required to be a peace
- 2 officer as [that term is] defined by Article 2A.001 [2.12], Code of
- 3 Criminal Procedure. The commission or director may commission the
- 4 inspector general as a commissioned peace officer of the department
- 5 if the inspector general holds a permanent peace officer license
- 6 issued under Chapter 1701, Occupations Code.
- 7 SECTION 2.093. Section 411.441(3), Government Code, is
- 8 amended to read as follows:
- 9 (3) "Law enforcement officer" means a person who is a
- 10 peace officer under Article 2A.001 [2.12], Code of Criminal
- 11 Procedure, or a person who is a federal law enforcement officer, as
- 12 defined by 5 U.S.C. Section 8331(20).
- SECTION 2.094. Section 466.3011, Government Code, is
- 14 amended to read as follows:
- Sec. 466.3011. VENUE. Venue is proper in Travis County or
- 16 any county in which venue is proper under Chapter 13A $[\frac{13}{2}]$, Code of
- 17 Criminal Procedure, for:
- 18 (1) an offense under this chapter;
- 19 (2) an offense under the Penal Code, if the accused:
- 20 (A) is a lottery operator, lottery vendor, sales
- 21 agent, or employee of the division; and
- 22 (B) is alleged to have committed the offense
- 23 while engaged in lottery activities; or
- 24 (3) an offense that involves property consisting of or
- 25 including lottery tickets under Title 7 or 11, Penal Code.
- SECTION 2.095. Section 493.0251(b), Government Code, is
- 27 amended to read as follows:
- 28 (b) If the department receives a notification under Article
- 29 2A.110 [2.023], Code of Criminal Procedure, regarding the
- 30 indictment of a defendant described by that article, the department
- 31 shall, to the extent requested under Subsection (c), make a
- 32 reasonable effort to provide notice of the offense charged in the
- 33 indictment to each victim, guardian of a victim, or close relative
- 34 of a deceased victim of an offense described by Article 2A.110(a)

- 1 [2.023(a)], Code of Criminal Procedure, for which the defendant was
- 2 previously imprisoned at a facility operated by or under contract
- 3 with the department and subsequently released.
- 4 SECTION 2.096. Section 531.1022(c), Government Code, is
- 5 amended to read as follows:
- 6 (c) A peace officer employed and commissioned by the office
- 7 under this section is a peace officer for purposes of Article 2A.001
- 8 $[\frac{2.12}{}]$, Code of Criminal Procedure.
- 9 SECTION 2.097. Section 552.117(a), Government Code, is
- 10 amended to read as follows:
- 11 (a) Information is excepted from the requirements of
- 12 Section 552.021 if it is information that relates to the home
- 13 address, home telephone number, emergency contact information, or
- 14 social security number of the following person or that reveals
- 15 whether the person has family members:
- 16 (1) a current or former official or employee of a
- 17 governmental body, except as otherwise provided by Section 552.024;
- 18 (2) a current or honorably retired peace officer as
- 19 defined by Article 2A.001 [2.12], Code of Criminal Procedure, or a
- 20 current or honorably retired security officer commissioned under
- 21 Section 51.212, Education Code, regardless of whether the officer
- 22 complies with Section 552.024 or 552.1175, as applicable;
- 23 (3) a current or former employee of the Texas
- 24 Department of Criminal Justice or of the predecessor in function of
- 25 the department or any division of the department, regardless of
- 26 whether the current or former employee complies with Section
- 27 552.1175;
- 28 (4) a peace officer as defined by Article 2A.001
- 29 [2.12], Code of Criminal Procedure, or other law, a reserve law
- 30 enforcement officer, a commissioned deputy game warden, or a
- 31 corrections officer in a municipal, county, or state penal
- 32 institution in this state who was killed in the line of duty,
- 33 regardless of whether the deceased complied with Section 552.024 or
- 34 552**.**1175;

- 1 (5) a commissioned security officer as defined by
- 2 Section 1702.002, Occupations Code, regardless of whether the
- 3 officer complies with Section 552.024 or 552.1175, as applicable;
- 4 (6) an officer or employee of a community supervision
- 5 and corrections department established under Chapter 76 who
- 6 performs a duty described by Section 76.004(b), regardless of
- 7 whether the officer or employee complies with Section 552.024 or
- 8 552.1175;
- 9 (7) a current or former employee of the office of the
- 10 attorney general who is or was assigned to a division of that office
- 11 the duties of which involve law enforcement, regardless of whether
- 12 the current or former employee complies with Section 552.024 or
- 13 552.1175;
- 14 (8) a current or former employee of the Texas Juvenile
- 15 Justice Department or of the predecessors in function of the
- 16 department, regardless of whether the current or former employee
- 17 complies with Section 552.024 or 552.1175;
- 18 (9) a current or former juvenile probation or
- 19 supervision officer certified by the Texas Juvenile Justice
- 20 Department, or the predecessors in function of the department,
- 21 under Title 12, Human Resources Code, regardless of whether the
- 22 current or former officer complies with Section 552.024 or
- 23 552.1175;
- 24 (10) a current or former employee of a juvenile
- 25 justice program or facility, as those terms are defined by Section
- 26 261.405, Family Code, regardless of whether the current or former
- 27 employee complies with Section 552.024 or 552.1175;
- 28 (11) a current or former member of the United States
- 29 Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary
- 30 service of one of those branches of the armed forces, or the Texas
- 31 military forces, as that term is defined by Section 437.001;
- 32 (12) a current or former district attorney, criminal
- 33 district attorney, or county or municipal attorney whose
- 34 jurisdiction includes any criminal law or child protective services

- 1 matters, regardless of whether the current or former attorney
- 2 complies with Section 552.024 or 552.1175;
- 3 (13) a current or former employee of a district
- 4 attorney, criminal district attorney, or county or municipal
- 5 attorney whose jurisdiction includes any criminal law or child
- 6 protective services matters, regardless of whether the current or
- 7 former employee complies with Section 552.024 or 552.1175;
- 8 (14) a current or former employee of the Texas Civil
- 9 Commitment Office or of the predecessor in function of the office or
- 10 a division of the office, regardless of whether the current or
- 11 former employee complies with Section 552.024 or 552.1175;
- 12 (15) a current or former federal judge or state judge,
- 13 as those terms are defined by Section 1.005, Election Code, a
- 14 federal bankruptcy judge, a marshal of the United States Marshals
- 15 Service, a United States attorney, or a family member of a current
- 16 or former federal judge, including a federal bankruptcy judge, a
- 17 marshal of the United States Marshals Service, a United States
- 18 attorney, or a state judge;
- 19 (16) a current or former child protective services
- 20 caseworker, adult protective services caseworker, or investigator
- 21 for the Department of Family and Protective Services, regardless of
- 22 whether the caseworker or investigator complies with Section
- 23 552.024 or 552.1175, or a current or former employee of a department
- 24 contractor performing child protective services caseworker, adult
- 25 protective services caseworker, or investigator functions for the
- 26 contractor on behalf of the department;
- 27 (17) an elected public officer, regardless of whether
- 28 the officer complies with Section 552.024 or 552.1175;
- 29 (18) a current or former United States attorney,
- 30 assistant United States attorney, federal public defender, deputy
- 31 federal public defender, or assistant federal public defender and
- 32 the spouse or child of the current or former attorney or public
- 33 defender, regardless of whether the person complies with Section
- 34 552.024 or 552.1175; or

- 1 (19) a firefighter or volunteer firefighter or
- 2 emergency medical services personnel as defined by Section 773.003,
- 3 Health and Safety Code, regardless of whether the firefighter or
- 4 volunteer firefighter or emergency medical services personnel
- 5 comply with Section 552.024 or 552.1175, as applicable.
- 6 SECTION 2.098. Section 552.1175(a), Government Code, is
- 7 amended to read as follows:
- 8 (a) This section applies only to:
- 9 (1) current or honorably retired peace officers as
- 10 defined by Article 2A.001 [2.12], Code of Criminal Procedure, or
- 11 special investigators as described by Article 2A.002 [2.122], Code
- 12 of Criminal Procedure;
- 13 (2) current or honorably retired county jailers as
- 14 defined by Section 1701.001, Occupations Code;
- 15 (3) current or former employees of the Texas
- 16 Department of Criminal Justice or of the predecessor in function of
- 17 the department or any division of the department;
- 18 (4) commissioned security officers as defined by
- 19 Section 1702.002, Occupations Code;
- 20 (5) a current or former district attorney, criminal
- 21 district attorney, or county or municipal attorney whose
- 22 jurisdiction includes any criminal law or child protective services
- 23 matters;
- 24 (5-a) a current or former employee of a district
- 25 attorney, criminal district attorney, or county or municipal
- 26 attorney whose jurisdiction includes any criminal law or child
- 27 protective services matters;
- 28 (6) officers and employees of a community supervision
- 29 and corrections department established under Chapter 76 who perform
- 30 a duty described by Section 76.004(b);
- 31 (7) criminal investigators of the United States as
- 32 described by Article 2A.002(a) [2.122(a)], Code of Criminal
- 33 Procedure;
- 34 (8) current or honorably retired police officers and

- 1 inspectors of the United States Federal Protective Service;
- 2 (9) current and former employees of the office of the
- 3 attorney general who are or were assigned to a division of that
- 4 office the duties of which involve law enforcement;
- 5 (10) current or former juvenile probation and
- 6 detention officers certified by the Texas Juvenile Justice
- 7 Department, or the predecessors in function of the department,
- 8 under Title 12, Human Resources Code;
- 9 (11) current or former employees of a juvenile justice
- 10 program or facility, as those terms are defined by Section 261.405,
- 11 Family Code;
- 12 (12) current or former employees of the Texas Juvenile
- 13 Justice Department or the predecessors in function of the
- 14 department;
- 15 (13) federal judges and state judges as defined by
- 16 Section 1.005, Election Code;
- 17 (14) current or former employees of the Texas Civil
- 18 Commitment Office or of the predecessor in function of the office or
- 19 a division of the office;
- 20 (15) a current or former member of the United States
- 21 Army, Navy, Air Force, Coast Guard, or Marine Corps, an auxiliary
- 22 service of one of those branches of the armed forces, or the Texas
- 23 military forces, as that term is defined by Section 437.001;
- 24 (16) a current or former child protective services
- 25 caseworker, adult protective services caseworker, or investigator
- 26 for the Department of Family and Protective Services or a current or
- 27 former employee of a department contractor performing child
- 28 protective services caseworker, adult protective services
- 29 caseworker, or investigator functions for the contractor on behalf
- 30 of the department;
- 31 (17) an elected public officer;
- 32 (18) a firefighter or volunteer firefighter or
- 33 emergency medical services personnel as defined by Section 773.003,
- 34 Health and Safety Code; and

- 1 (19) a current or former United States attorney,
- 2 assistant United States attorney, federal public defender, deputy
- 3 federal public defender, or assistant federal public defender.
- 4 SECTION 2.099. Section 552.119(a), Government Code, is
- 5 amended to read as follows:
- 6 (a) A photograph that depicts a peace officer as defined by
- 7 Article 2A.001 [2.12], Code of Criminal Procedure, the release of
- 8 which would endanger the life or physical safety of the officer, is
- 9 excepted from the requirements of Section 552.021 unless:
- 10 (1) the officer is under indictment or charged with an
- 11 offense by information;
- 12 (2) the officer is a party in a civil service hearing
- 13 or a case in arbitration; or
- 14 (3) the photograph is introduced as evidence in a
- 15 judicial proceeding.
- SECTION 2.100. Section 552.1425(a), Government Code, is
- 17 amended to read as follows:
- 18 (a) A private entity that compiles and disseminates for
- 19 compensation criminal history record information may not compile or
- 20 disseminate information with respect to which the entity has
- 21 received notice that:
- 22 (1) an order of expunction has been issued under
- 23 Subchapter E or F, Chapter 55A [Article 55.02], Code of Criminal
- 24 Procedure; or
- 25 (2) an order of nondisclosure of criminal history
- 26 record information has been issued under Subchapter E-1, Chapter
- 27 411.
- SECTION 2.101. Section 574.004, Government Code, is amended
- 29 to read as follows:
- 30 Sec. 574.004. ASSISTANCE BY ATTORNEY GENERAL. This chapter
- 31 does not prevent the attorney general from providing assistance to
- 32 district attorneys, criminal district attorneys, and county
- 33 attorneys on request by allowing assistant attorneys general to
- 34 serve as duly appointed and deputized assistant prosecutors, nor

- 1 does this chapter prohibit the appointment of an assistant attorney
- 2 general as an attorney pro tem pursuant to Article 2A.104 [2.07],
- 3 Code of Criminal Procedure.
- 4 SECTION 2.102. Section 602.002, Government Code, is amended
- 5 to read as follows:
- 6 Sec. 602.002. OATH MADE IN TEXAS. An oath made in this
- 7 state may be administered and a certificate of the fact given by:
- 8 (1) a judge, retired judge, or clerk of a municipal
- 9 court;
- 10 (2) a judge, retired judge, senior judge, clerk, or
- 11 commissioner of a court of record;
- 12 (3) a justice of the peace or a clerk of a justice
- 13 court;
- 14 (4) an associate judge, magistrate, master, referee,
- 15 or criminal law hearing officer;
- 16 (5) a notary public;
- 17 (6) a member of a board or commission created by a law
- 18 of this state, in a matter pertaining to a duty of the board or
- 19 commission;
- 20 (7) a person employed by the Texas Ethics Commission
- 21 who has a duty related to a report required by Title 15, Election
- 22 Code, in a matter pertaining to that duty;
- 23 (8) a county tax assessor-collector or an employee of
- 24 the county tax assessor-collector if the oath relates to a document
- 25 that is required or authorized to be filed in the office of the
- 26 county tax assessor-collector;
- 27 (9) the secretary of state or a former secretary of
- 28 state;
- 29 (10) an employee of a personal bond office, or an
- 30 employee of a county, who is employed to obtain information
- 31 required to be obtained under oath if the oath is required or
- 32 authorized by Article 17.04 or by Article 26.04(n) or (o), Code of
- 33 Criminal Procedure;
- 34 (11) the lieutenant governor or a former lieutenant

- 1 governor;
- 2 (12) the speaker of the house of representatives or a
- 3 former speaker of the house of representatives;
- 4 (13) the governor or a former governor;
- 5 (14) a legislator or retired legislator;
- 6 (14-a) the secretary of the senate or the chief clerk
- 7 of the house of representatives;
- 8 (15) the attorney general or a former attorney
- 9 general;
- 10 (16) the secretary or clerk of a municipality in a
- 11 matter pertaining to the official business of the municipality;
- 12 (17) a peace officer described by Article <u>2A.001</u>
- 13 [2.12], Code of Criminal Procedure, if:
- 14 (A) the oath is administered when the officer is
- 15 engaged in the performance of the officer's duties; and
- 16 (B) the administration of the oath relates to the
- 17 officer's duties; or
- 18 (18) a county treasurer.
- 19 SECTION 2.103. Section 607.051(4), Government Code, is
- 20 amended to read as follows:
- 21 (4) "Peace officer" means an individual elected,
- 22 appointed, or employed to serve as a peace officer for a
- 23 governmental entity under Article 2A.001 [2.12], Code of Criminal
- 24 Procedure, or other law.
- SECTION 2.104. Section 612.005(a), Government Code, is
- 26 amended to read as follows:
- 27 (a) In this section, "law enforcement officer" means a peace
- 28 officer as defined by Article 2A.001 [2.12], Code of Criminal
- 29 Procedure, or other law.
- 30 SECTION 2.105. Section 614.001(3), Government Code, is
- 31 amended to read as follows:
- 32 (3) "Peace officer" means an individual elected,
- 33 appointed, or employed to serve as a peace officer for a
- 34 governmental entity under Article 2A.001 [2.12], Code of Criminal

- 1 Procedure, or other law.
- 2 SECTION 2.106. Section 614.021(a), Government Code, is
- 3 amended to read as follows:
- 4 (a) Except as provided by Subsection (b), this subchapter
- 5 applies only to a complaint against:
- 6 (1) a law enforcement officer of the State of Texas,
- 7 including an officer of the Department of Public Safety or of the
- 8 Texas Alcoholic Beverage Commission;
- 9 (2) a fire fighter who is employed by this state or a
- 10 political subdivision of this state;
- 11 (3) a peace officer under Article 2A.001 [2.12], Code
- 12 of Criminal Procedure, or other law who is appointed or employed by
- 13 a political subdivision of this state; or
- 14 (4) a detention officer or county jailer who is
- 15 appointed or employed by a political subdivision of this state.
- SECTION 2.107. Section 614.061, Government Code, is amended
- 17 to read as follows:
- 18 Sec. 614.061. DEFINITION. In this subchapter, "peace
- 19 officer" means a person who:
- 20 (1) is elected, appointed, or employed by a
- 21 governmental entity; and
- 22 (2) is a peace officer under Article 2A.001 [2.12],
- 23 Code of Criminal Procedure, or other law.
- 24 SECTION 2.108. Sections 614.121(1), (2), and (3),
- 25 Government Code, are amended to read as follows:
- 26 (1) "Full-time peace officer" means a person elected,
- 27 employed, or appointed as a peace officer under Article 2A.001
- 28 [2.12], Code of Criminal Procedure, or other law, who:
- 29 (A) works as a peace officer on average at least
- 30 32 hours per week, exclusive of paid vacation; and
- 31 (B) is compensated by this state or a political
- 32 subdivision of this state at least at the federal minimum wage and
- 33 is entitled to all employee benefits offered to a peace officer by
- 34 the state or political subdivision.

- 1 (2) "Honorably retired peace officer" means a former
- 2 peace officer who:
- 3 (A) previously served but is not currently
- 4 serving as an elected, appointed, or employed peace officer under
- 5 Article 2A.001 [2.12], Code of Criminal Procedure, or other law;
- 6 (B) did not retire in lieu of any disciplinary
- 7 action;
- 8 (C) was eligible to retire from a law enforcement
- 9 agency in this state or was ineligible to retire only as a result of
- 10 an injury received in the course of the officer's employment with
- 11 the agency; and
- 12 (D) is eligible to receive a pension or annuity
- 13 for service as a law enforcement officer in this state or is
- 14 ineligible to receive a pension or annuity only because the law
- 15 enforcement agency that employed the officer does not offer a
- 16 pension or annuity to its employees.
- 17 (3) "Part-time peace officer" means a person elected,
- 18 employed, or appointed as a peace officer under Article 2A.001
- 19 [2.12], Code of Criminal Procedure, or other law, who:
- 20 (A) works as a peace officer on average less than
- 21 32 hours per week, exclusive of paid vacation; and
- 22 (B) is compensated by this state or a political
- 23 subdivision of this state at least at the federal minimum wage and
- 24 is entitled to all employee benefits offered to a peace officer by
- 25 the state or political subdivision.
- SECTION 2.109. Section 615.003, Government Code, is amended
- 27 to read as follows:
- Sec. 615.003. APPLICABILITY. This chapter applies only to
- 29 eligible survivors of the following individuals:
- 30 (1) an individual:
- 31 (A) elected, appointed, or employed as a peace
- 32 officer by the state or a political subdivision of the state under
- 33 Article 2A.001 [2.12], Code of Criminal Procedure, or other law; or
- 34 (B) employed as a peace officer by a private

- 1 institution of higher education, including a private junior
- 2 college, that is located in this state under Section 51.212,
- 3 Education Code;
- 4 (2) a paid probation officer appointed by the director
- 5 of a community supervision and corrections department who has the
- 6 duties set out in Section 76.002 and the qualifications set out in
- 7 Section 76.005, or who was appointed in accordance with prior law;
- 8 (3) a parole officer employed by the Texas Department
- 9 of Criminal Justice who has the duties set out in Section 508.001
- 10 and the qualifications set out in Section 508.113 or in prior law;
- 11 (4) a paid jailer;
- 12 (5) a member of an organized police reserve or
- 13 auxiliary unit who regularly assists peace officers in enforcing
- 14 criminal laws;
- 15 (6) a member of the class of employees of the
- 16 correctional institutions division formally designated as
- 17 custodial personnel under Section 615.006 by the Texas Board of
- 18 Criminal Justice or its predecessor in function;
- 19 (7) a jailer or guard of a county jail who is appointed
- 20 by the sheriff and who:
- 21 (A) performs a security, custodial, or
- 22 supervisory function over the admittance, confinement, or
- 23 discharge of prisoners; and
- 24 (B) is certified by the Texas Commission on Law
- 25 Enforcement;
- 26 (8) a juvenile correctional employee of the Texas
- 27 Juvenile Justice Department;
- 28 (9) an employee of the Department of Aging and
- 29 Disability Services or Department of State Health Services who:
- 30 (A) works at the department's maximum security
- 31 unit; or
- 32 (B) performs on-site services for the Texas
- 33 Department of Criminal Justice;
- 34 (10) an individual who is employed by the state or a

- 1 political or legal subdivision and is subject to certification by
- 2 the Texas Commission on Fire Protection;
- 3 (11) an individual employed by the state or a
- 4 political or legal subdivision whose principal duties are aircraft
- 5 crash and rescue fire fighting;
- 6 (12) a member of an organized volunteer fire-fighting
- 7 unit that:
- 8 (A) renders fire-fighting services without
- 9 remuneration; and
- 10 (B) conducts a minimum of two drills each month,
- 11 each two hours long;
- 12 (13) an individual who:
- 13 (A) performs emergency medical services or
- 14 operates an ambulance;
- 15 (B) is employed by a political subdivision of the
- 16 state or is an emergency medical services volunteer as defined by
- 17 Section 773.003, Health and Safety Code; and
- 18 (C) is qualified as an emergency care attendant
- 19 or at a higher level of training under Section 773.046, 773.047,
- 20 773.048, 773.049, or 773.0495, Health and Safety Code;
- 21 (14) an individual who is employed or formally
- 22 designated as a chaplain for:
- 23 (A) an organized volunteer fire-fighting unit or
- 24 other fire department of this state or of a political subdivision of
- 25 this state;
- 26 (B) a law enforcement agency of this state or of a
- 27 political subdivision of this state; or
- 28 (C) the Texas Department of Criminal Justice;
- 29 (15) an individual who is employed by the state or a
- 30 political subdivision of the state and who is considered by the
- 31 governmental employer to be a trainee for a position otherwise
- 32 described by this section;
- 33 (16) an individual who is employed by the Department
- 34 of Public Safety and, as certified by the director, is:

- 1 (A) deployed into the field in direct support of
- 2 a law enforcement operation, including patrol, investigative,
- 3 search and rescue, crime scene, on-site communications, or special
- 4 operations; and
- 5 (B) given a special assignment in direct support
- 6 of operations relating to organized crime, criminal interdiction,
- 7 border security, counterterrorism, intelligence, traffic
- 8 enforcement, emergency management, regulatory services, or special
- 9 investigations; or
- 10 (17) an individual who is employed by the Parks and
- 11 Wildlife Department and, as certified by the executive director of
- 12 the Parks and Wildlife Department, is:
- 13 (A) deployed into the field in direct support of
- 14 a law enforcement operation, including patrol, investigative,
- 15 search and rescue, crime scene, on-site communications, or special
- 16 operations; and
- 17 (B) given a special assignment in direct support
- 18 of operations relating to organized crime, criminal interdiction,
- 19 border security, counterterrorism, intelligence, traffic
- 20 enforcement, emergency management, regulatory services, or special
- 21 investigations.
- SECTION 2.110. Section 615.102(a), Government Code, is
- 23 amended to read as follows:
- 24 (a) This section applies only to:
- 25 (1) an individual listed in Section 615.003(1) who is
- 26 employed by a political subdivision of the state;
- 27 (2) a peace officer under Article 2A.001 [2.12], Code
- 28 of Criminal Procedure, or other law who is employed by the state,
- 29 including any state agency or any institution of higher education
- 30 under Section 61.003, Education Code; or
- 31 (3) an individual listed in Section 615.003(7).
- 32 SECTION 2.111. Section 615.103(a), Government Code, is
- 33 amended to read as follows:
- 34 (a) This section applies only to:

- 1 (1) an individual listed in Section 615.003(1) who is
- 2 employed by a political subdivision of the state;
- 3 (2) a peace officer under Article 2A.001 [2.12], Code
- 4 of Criminal Procedure, or other law who is employed by the state,
- 5 including any state agency or any institution of higher education
- 6 under Section 61.003, Education Code;
- 7 (3) an individual listed in Section 615.003(7); or
- 8 (4) an individual listed in Section 615.003(10) or
- 9 (11) who is employed by a political subdivision of the state.
- SECTION 2.112. Section 615.105(a), Government Code, is
- 11 amended to read as follows:
- 12 (a) This section applies only to:
- 13 (1) an individual elected, appointed, or employed as a
- 14 peace officer by the state or a political subdivision of the state
- 15 under Article 2A.001 [2.12], Code of Criminal Procedure, or other
- 16 law; or
- 17 (2) an honorably retired peace officer who formerly
- 18 held a position described by Subdivision (1) and voluntarily
- 19 terminated employment with a law enforcement agency of this state
- 20 or a political subdivision of this state.
- 21 SECTION 2.113. Section 661.918(a), Government Code, is
- 22 amended to read as follows:
- 23 (a) This section applies to a peace officer under Article
- 24 2A.001 [2.12], Code of Criminal Procedure, who is commissioned as a
- 25 law enforcement officer or agent, including a ranger, by:
- 26 (1) the Public Safety Commission and the director of
- 27 the Department of Public Safety;
- 28 (2) the Parks and Wildlife Commission;
- 29 (3) the Texas Alcoholic Beverage Commission;
- 30 (4) the attorney general; or
- 31 (5) the insurance fraud unit of the Texas Department
- 32 of Insurance.
- 33 SECTION 2.114. Section 662.005(b), Government Code, is
- 34 amended to read as follows:

- 1 (b) Except as provided by Section 662.010, notwithstanding Section 659.015 or another law, a state employee 2 who is a peace officer commissioned by a state officer or state 3 agency listed under Article 2A.001 [2.12], Code of Criminal 4 Procedure, or who is employed by the Department of Public Safety 5 either to perform communications or dispatch services related to 6 7 traffic law enforcement or as a public security officer, as that term is defined by Section 1701.001, Occupations Code, or who is 8 employed by the Parks and Wildlife Department to 9 perform communications and dispatch services to assist law enforcement 10 officers commissioned by the Parks and Wildlife Commission in 11 performing law enforcement duties, and who is required to work on a 12 national or state holiday that falls on a Saturday or Sunday is 13 entitled to compensatory time off at the rate of one hour for each 14 15 hour worked on the holiday.
- SECTION 2.115. Sections 752.053(a) and (b), Government Code, are amended to read as follows:
- 18 (a) A local entity or campus police department may not:
- (1) adopt, enforce, or endorse a policy under which 20 the entity or department prohibits or materially limits the 21 enforcement of immigration laws;
- 22 (2) as demonstrated by pattern or practice, prohibit 23 or materially limit the enforcement of immigration laws; or
- (3) for an entity that is a law enforcement agency or for a department, as demonstrated by pattern or practice, intentionally violate Article <u>2A.060</u> [2.251], Code of Criminal Procedure.
- (b) In compliance with Subsection (a), a local entity or campus police department may not prohibit or materially limit a person who is a commissioned peace officer described by Article 2A.001 [2.12], Code of Criminal Procedure, a corrections officer, a booking clerk, a magistrate, or a district attorney, criminal district attorney, or other prosecuting attorney and who is employed by or otherwise under the direction or control of the

- 1 entity or department from doing any of the following:
- 2 (1) inquiring into the immigration status of a person
- 3 under a lawful detention or under arrest;
- 4 (2) with respect to information relating to the
- 5 immigration status, lawful or unlawful, of any person under a
- 6 lawful detention or under arrest, including information regarding
- 7 the person's place of birth:
- 8 (A) sending the information to or requesting or
- 9 receiving the information from United States Citizenship and
- 10 Immigration Services, United States Immigration and Customs
- 11 Enforcement, or another relevant federal agency;
- 12 (B) maintaining the information; or
- 13 (C) exchanging the information with another
- 14 local entity or campus police department or a federal or state
- 15 governmental entity;
- 16 (3) assisting or cooperating with a federal
- 17 immigration officer as reasonable or necessary, including
- 18 providing enforcement assistance; or
- 19 (4) permitting a federal immigration officer to enter
- 20 and conduct enforcement activities at a jail to enforce federal
- 21 immigration laws.
- SECTION 2.116. Section 752.057(a), Government Code, is
- 23 amended to read as follows:
- 24 (a) Each law enforcement agency that is subject to the
- 25 requirements of this subchapter may adopt a written policy
- 26 requiring the agency to perform community outreach activities to
- 27 educate the public that a peace officer may not inquire into the
- 28 immigration status of a victim of or witness to an alleged criminal
- 29 offense unless, as provided by Article 2A.059 [2.13], Code of
- 30 Criminal Procedure, the officer determines that the inquiry is
- 31 necessary to:
- 32 (1) investigate the offense; or
- 33 (2) provide the victim or witness with information
- 34 about federal visas designed to protect individuals providing

- 1 assistance to law enforcement.
- 2 SECTION 2.117. Section 772.0074(a)(4), Government Code, is
- 3 amended to read as follows:
- 4 (4) "Peace officer" has the meaning assigned by
- 5 Article <u>2A.001</u> [2.12], Code of Criminal Procedure.
- 6 SECTION 2.118. Section 2158.009(d), Government Code, is
- 7 amended to read as follows:
- 8 (d) Subsection (b) does not apply to a state agency's
- 9 purchase of a vehicle to be used by a peace officer, as defined by
- 10 Article 2A.001 [2.12], Code of Criminal Procedure, whose duties
- 11 include the apprehension of persons for violation of a criminal law
- 12 of this state.
- SECTION 2.119. Section 3105.003(a), Government Code, is
- 14 amended to read as follows:
- 15 (a) A person is eligible to have the person's name on the
- 16 monument if the person was killed in the line of duty and was:
- 17 (1) a law enforcement officer or peace officer for
- 18 this state or a political subdivision of this state under Article
- 19 2A.001 [2.12], Code of Criminal Procedure, or other law;
- 20 (2) a federal law enforcement officer or special agent
- 21 performing duties in this state, including those officers under
- 22 Article 2A.002 [2.122], Code of Criminal Procedure;
- 23 (3) a corrections or detention officer or county or
- 24 municipal jailer employed or appointed by a municipal, county, or
- 25 state penal institution in this state; or
- 26 (4) employed by this state or a political subdivision
- 27 of this state and considered by the person's employer to be a
- 28 trainee for a position described by Subdivision (1), (2), or (3).
- SECTION 2.120. Section 3106.001(3), Government Code, is
- 30 amended to read as follows:
- 31 "Peace officer" means a peace officer commissioned
- 32 by the state or a political subdivision of the state under Article
- 33 2A.001 [2.12], Code of Criminal Procedure, or other law.
- SECTION 2.121. Section 81.003(4-b), Health and Safety Code,

- 1 is amended to read as follows:
- 2 (4-b) "Peace officer" has the meaning assigned by
- 3 Article 2A.001 [2.12], Code of Criminal Procedure. The term
- 4 includes a sheriff or constable.
- 5 SECTION 2.122. Section 382.018(g), Health and Safety Code,
- 6 is amended to read as follows:
- 7 (g) Notwithstanding Section 7.002, Water Code, the
- 8 provisions of this section and rules adopted under this section may
- 9 be enforced by a peace officer as described by Article 2A.001
- 10 [2.12], Code of Criminal Procedure.
- SECTION 2.123. Section 436.102(b), Health and Safety Code,
- 12 is amended to read as follows:
- 13 (b) A molluscan shellfish plant operator may employ an
- 14 off-duty peace officer to monitor the gathering of shellfish for
- 15 depuration from a restricted or conditionally restricted area as
- 16 provided by the rules adopted under Subsection (a). In this
- 17 subsection, "peace officer" includes those persons listed in
- 18 Article <u>2A.001</u> [2.12], Code of Criminal Procedure.
- 19 SECTION 2.124. Section 552.101, Health and Safety Code, is
- 20 amended to read as follows:
- Sec. 552.101. ASSISTING LAW ENFORCEMENT AGENCIES WITH
- 22 CERTAIN INVESTIGATIONS. The inspector general shall employ and
- 23 commission peace officers for the purpose of assisting a state or
- 24 local law enforcement agency in the investigation of an alleged
- 25 criminal offense involving a patient of a state hospital. A peace
- 26 officer employed and commissioned by the inspector general is a
- 27 peace officer for purposes of Article 2A.001 [2.12], Code of
- 28 Criminal Procedure.
- SECTION 2.125. Section 555.101, Health and Safety Code, is
- 30 amended to read as follows:
- 31 Sec. 555.101. ASSISTING LAW ENFORCEMENT AGENCIES WITH
- 32 CERTAIN INVESTIGATIONS. The inspector general shall employ and
- 33 commission peace officers for the purpose of assisting a state or
- 34 local law enforcement agency in the investigation of an alleged

417

- 1 criminal offense involving a resident or client of a center. A
- 2 peace officer employed and commissioned by the inspector general is
- 3 a peace officer for purposes of Article 2A.001 [2.12], Code of
- 4 Criminal Procedure.
- 5 SECTION 2.126. Section 821.0211, Health and Safety Code, is
- 6 amended to read as follows:
- 7 Sec. 821.0211. ADDITIONAL DEFINITION. In this subchapter,
- 8 "magistrate" means any officer as defined in Article 2A.151 [2.09],
- 9 Code of Criminal Procedure, except that the term does not include
- 10 justices of the supreme court, judges of the court of criminal
- 11 appeals, or courts of appeals, judges or associate judges of
- 12 statutory probate courts, or judges or associate judges of district
- 13 courts that give preference to family law matters or family
- 14 district courts under Subchapter D, Chapter 24, Government Code.
- 15 SECTION 2.127. Section 31.045, Human Resources Code, is
- 16 amended to read as follows:
- 17 Sec. 31.045. PEACE OFFICERS. The commission's office of
- 18 inspector general may employ and commission peace officers for the
- 19 purpose of assisting the office in the investigation of fraud,
- 20 waste, or abuse in the financial assistance program. A peace
- 21 officer employed and commissioned by the office is a peace officer
- 22 for purposes of Article 2A.001 [2.12], Code of Criminal Procedure.
- 23 SECTION 2.128. Section 33.032, Human Resources Code, is
- 24 amended to read as follows:
- Sec. 33.032. PEACE OFFICERS. The commission's office of
- 26 inspector general may employ and commission peace officers for the
- 27 purpose of assisting the office in the investigation of fraud,
- 28 waste, or abuse in the supplemental nutrition assistance program.
- 29 A peace officer employed and commissioned by the office is a peace
- 30 officer for purposes of Article 2A.001 [2.12], Code of Criminal
- 31 Procedure.
- 32 SECTION 2.129. Section 242.102(d), Human Resources Code, is
- 33 amended to read as follows:
- 34 (d) The office of inspector general may employ and

- 1 commission inspectors general as peace officers for the purpose of
- 2 carrying out the duties described by this section. An inspector
- 3 general shall have all of the powers and duties given to peace
- 4 officers under Articles 2A.051 and 2A.059 [Article 2.13], Code of
- 5 Criminal Procedure.
- 6 SECTION 2.130. Section 501.001(5), Labor Code, is amended
- 7 to read as follows:
- 8 (5) "Employee" means a person who is:
- 9 (A) in the service of the state pursuant to an
- 10 election, appointment, or express oral or written contract of hire;
- 11 (B) paid from state funds but whose duties
- 12 require that the person work and frequently receive supervision in
- 13 a political subdivision of the state;
- 14 (C) a peace officer employed by a political
- 15 subdivision, while the peace officer is exercising authority
- 16 granted under:
- (i) Article $2A.001 \left[\frac{2.12}{2.12}\right]$, Code of Criminal
- 18 Procedure; or
- 19 (ii) Articles 14.03(d) and (g), Code of
- 20 Criminal Procedure;
- 21 (D) a member of the state military forces, as
- 22 defined by Section 437.001, Government Code, who is engaged in
- 23 authorized training or duty;
- (E) a Texas Task Force 1 member, as defined by
- 25 Section 88.301, Education Code, who is activated by the Texas
- 26 Division of Emergency Management or is injured during training
- 27 sponsored or sanctioned by Texas Task Force 1; or
- 28 (F) an intrastate fire mutual aid system team
- 29 member or a regional incident management team member, as defined by
- 30 Section 88.126, Education Code, who is activated by the Texas
- 31 Division of Emergency Management or is injured during training
- 32 sponsored or sanctioned by the Texas Division of Emergency
- 33 Management on behalf of an intrastate fire mutual aid system team or
- 34 a regional incident management team, as applicable.

- 1 SECTION 2.131. Section 504.019(a)(1), Labor Code, is
- 2 amended to read as follows:
- 3 (1) "First responder" means an individual employed by
- 4 a political subdivision of this state who is:
- 5 (A) a peace officer under Article 2A.001 [2.12],
- 6 Code of Criminal Procedure;
- 7 (B) a person licensed under Chapter 773, Health
- 8 and Safety Code, as an emergency care attendant, emergency medical
- 9 technician, emergency medical technician-intermediate, emergency
- 10 medical technician-paramedic, or licensed paramedic; or
- 11 (C) a firefighter subject to certification by the
- 12 Texas Commission on Fire Protection under Chapter 419, Government
- 13 Code, whose principal duties are firefighting and aircraft crash
- 14 and rescue.
- SECTION 2.132. Section 504.055(a), Labor Code, is amended
- 16 to read as follows:
- 17 (a) In this section, "first responder" means:
- 18 (1) an individual employed by a political subdivision
- 19 of this state who is:
- 20 (A) a peace officer under Article 2A.001 [2.12],
- 21 Code of Criminal Procedure;
- (B) a person licensed under Chapter 773, Health
- 23 and Safety Code, as an emergency care attendant, emergency medical
- 24 technician, emergency medical technician-intermediate, emergency
- 25 medical technician-paramedic, or licensed paramedic; or
- 26 (C) a firefighter subject to certification by the
- 27 Texas Commission on Fire Protection under Chapter 419, Government
- 28 Code, whose principal duties are firefighting and aircraft crash
- 29 and rescue; or
- 30 (2) an individual covered under Section 504.012(a) who
- 31 is providing volunteer services to a political subdivision of this
- 32 state as:
- 33 (A) a volunteer firefighter, without regard to
- 34 whether the volunteer firefighter is certified under Subchapter D,

- 1 Chapter 419, Government Code; or
- 2 (B) an emergency medical services volunteer, as
- 3 defined by Section 773.003, Health and Safety Code.
- 4 SECTION 2.133. Section 85.004(b), Local Government Code, is
- 5 amended to read as follows:
- 6 (b) A reserve deputy serves at the discretion of the sheriff
- 7 and may be called into service if the sheriff considers it necessary
- 8 to have additional officers to preserve the peace and enforce the
- 9 law. The sheriff may authorize a reserve deputy who is a peace
- 10 officer as described by Article 2A.001 [2.12], Code of Criminal
- 11 Procedure, to carry a weapon or act as a peace officer at all times,
- 12 regardless of whether the reserve deputy is engaged in the actual
- 13 discharge of official duties, or may limit the authority of the
- 14 reserve deputy to carry a weapon or act as a peace officer to only
- 15 those times during which the reserve deputy is engaged in the actual
- 16 discharge of official duties. A reserve deputy who is not a peace
- 17 officer as described by Article 2A.001 [2.12], Code of Criminal
- 18 Procedure, may act as a peace officer only during the actual
- 19 discharge of official duties. A reserve deputy, regardless of
- 20 whether the reserve deputy is a peace officer as described by
- 21 Article 2A.001 [2.12], Code of Criminal Procedure, is not:
- 22 (1) eligible for participation in any program provided
- 23 by the county that is normally considered a financial benefit of
- 24 full-time employment or for any pension fund created by statute for
- 25 the benefit of full-time paid peace officers; or
- 26 (2) exempt from Chapter 1702, Occupations Code.
- SECTION 2.134. Section 86.0021(a), Local Government Code,
- 28 is amended to read as follows:
- 29 (a) A person is not eligible to serve as constable unless:
- 30 (1) the person is eligible to be licensed under
- 31 Sections 1701.309 and 1701.312, Occupations Code, and:
- 32 (A) has at least an associate's degree conferred
- 33 by an institution of higher education accredited by an accrediting
- 34 organization recognized by the Texas Higher Education Coordinating

- 1 Board;
- 2 (B) is a special investigator under Article
- 3 2A.002(a) [2.122(a)], Code of Criminal Procedure; or
- 4 (C) is an honorably retired peace officer or
- 5 honorably retired federal criminal investigator who holds a
- 6 certificate of proficiency issued under Section 1701.357,
- 7 Occupations Code; or
- 8 (2) the person is an active or inactive licensed peace
- 9 officer under Chapter 1701, Occupations Code.
- SECTION 2.135. Section 86.012(b), Local Government Code, is
- 11 amended to read as follows:
- 12 (b) A reserve deputy constable serves at the discretion of
- 13 the constable and may be called into service at any time that the
- 14 constable considers it necessary to have additional officers to
- 15 preserve the peace and enforce the law. The constable may authorize
- 16 a reserve deputy constable who is a peace officer as described by
- 17 Article 2A.001 [2.12], Code of Criminal Procedure, to carry a
- 18 weapon or act as a peace officer at all times, regardless of whether
- 19 the reserve deputy constable is engaged in the actual discharge of
- 20 official duties, or may limit the authority of the reserve deputy
- 21 constable to carry a weapon or act as a peace officer to only those
- 22 times during which the reserve deputy constable is engaged in the
- 23 actual discharge of official duties. A reserve deputy constable
- 24 who is not a peace officer as described by Article 2A.001 $[\frac{2.12}{2.12}]$,
- 25 Code of Criminal Procedure, may act as a peace officer only during
- 26 the actual discharge of official duties. A reserve deputy
- 27 constable, regardless of whether the reserve deputy constable is a
- 28 peace officer as described by Article $2A.001 [\frac{2.12}{2}]$, Code of
- 29 Criminal Procedure, is not:
- 30 (1) eligible for participation in any program provided
- 31 by the county that is normally considered a financial benefit of
- 32 full-time employment or for any pension fund created by statute for
- 33 the benefit of full-time paid peace officers; or
- 34 (2) exempt from Chapter 1702, Occupations Code.

- 1 SECTION 2.136. Section 134.156(a), Local Government Code,
- 2 is amended to read as follows:
- 3 (a) Money allocated under Section 134.103 to the local
- 4 truancy prevention and diversion fund maintained in the county or
- 5 municipal treasury as required by Section 134.151 may be used by a
- 6 county or municipality to finance the salary, benefits, training,
- 7 travel expenses, office supplies, and other necessary expenses
- 8 relating to the position of a juvenile case manager employed under
- 9 Article 45A.451 [45.056], Code of Criminal Procedure. If there is
- 10 money in the fund after those costs are paid, subject to the
- 11 direction of the governing body of the county or municipality and on
- 12 approval by the employing court, a juvenile case manager may direct
- 13 the remaining money to be used to implement programs directly
- 14 related to the duties of the juvenile case manager, including
- 15 juvenile alcohol and substance abuse programs, educational and
- 16 leadership programs, and any other projects designed to prevent or
- 17 reduce the number of juvenile referrals to the court.
- SECTION 2.137. Section 141.008(a-2), Local Government
- 19 Code, is amended to read as follows:
- 20 (a-2) The governing body shall make the payroll deduction
- 21 described by Subsection (a) if:
- 22 (1) requested in writing by employees who:
- (A) are peace officers as defined by Article
- 24 2A.001 [2.12], Code of Criminal Procedure; and
- 25 (B) are not members of a police department
- 26 covered by a collective bargaining agreement or meet-and-confer
- 27 agreement entered into under this code; and
- 28 (2) the municipality permits deductions for purposes
- 29 other than charity, health insurance, taxes, or other purposes for
- 30 which the municipality is required by law to permit a deduction.
- 31 SECTION 2.138. Section 142.004(a), Local Government Code,
- 32 is amended to read as follows:
- 33 (a) In this section, "peace officer" means a peace officer
- 34 as defined by Article 2A.001 [2.12], Code of Criminal Procedure.

- 1 SECTION 2.139. Section 142.052(1), Local Government Code,
- 2 is amended to read as follows:
- 3 (1) "Police officer" means a person who is a peace
- 4 officer under Article 2A.001 [2.12], Code of Criminal Procedure, or
- 5 other law, and who is employed by a municipality.
- 6 SECTION 2.140. Section 180.002(a), Local Government Code,
- 7 is amended to read as follows:
- 8 (a) In this section, "peace officer" has the meaning
- 9 assigned by Article 2A.001 [2.12], Code of Criminal Procedure.
- SECTION 2.141. Section 180.008(a)(5), Local Government
- 11 Code, as added by Chapter 685 (H.B. 2073), Acts of the 87th
- 12 Legislature, Regular Session, 2021, is amended to read as follows:
- 13 (5) "Peace officer" means an individual described by
- 14 Article 2A.001 [2.12], Code of Criminal Procedure, who is elected
- 15 for, employed by, or appointed by a political subdivision.
- 16 SECTION 2.142. Sections 341.012(f), (g), and (h), Local
- 17 Government Code, are amended to read as follows:
- 18 (f) A member of a reserve force who is not a peace officer as
- 19 described by Article 2A.001 [2.12], Code of Criminal Procedure, may
- 20 act as a peace officer only during the actual discharge of official
- 21 duties.
- 22 (g) An appointment to the reserve force must be approved by
- 23 the governing body before the person appointed may carry a weapon or
- 24 otherwise act as a peace officer. On approval of the appointment of
- 25 a member who is not a peace officer as described by Article 2A.001
- 26 [2.12], Code of Criminal Procedure, the person appointed may carry
- 27 a weapon only when authorized to do so by the chief of police and
- 28 only when discharging official duties as a peace officer.
- 29 (h) Reserve police officers may act only in a supplementary
- 30 capacity to the regular police force and may not assume the
- 31 full-time duties of regular police officers without complying with
- 32 the requirements for regular police officers. On approval of the
- 33 appointment of a member who is a peace officer as described by
- 34 Article $\underline{2\text{A.001}}$ [$\underline{2.12}$], Code of Criminal Procedure, the chief of

- 1 police may authorize the person appointed to carry a weapon or act
- 2 as a peace officer at all times, regardless of whether the person is
- 3 engaged in the actual discharge of official duties, or may limit the
- 4 authority of the person to carry a weapon or act as a peace officer
- 5 to only those times during which the person is engaged in the actual
- 6 discharge of official duties. A reserve police officer, regardless
- 7 of whether the reserve police officer is a peace officer as
- 8 described by Article 2A.001 [2.12], Code of Criminal Procedure, is
- 9 not:
- 10 (1) eligible for participation in any program provided
- 11 by the governing body that is normally considered a financial
- 12 benefit of full-time employment or for any pension fund created by
- 13 statute for the benefit of full-time paid peace officers; or
- 14 (2) exempt from Chapter 1702, Occupations Code.
- SECTION 2.143. Section 341.904(e), Local Government Code,
- 16 is amended to read as follows:
- 17 (e) It is an affirmative defense to prosecution under this
- 18 section that:
- 19 (1) the object was used or intended to be used
- 20 exclusively for decorative purposes and:
- 21 (A) the actor was not engaged in an activity
- 22 involving police work or security work; or
- 23 (B) the object was used only in an artistic or
- 24 dramatic presentation;
- 25 (2) the actor was engaged in the commercial
- 26 manufacturing or commercial sales of the items described by
- 27 Subsection (b);
- 28 (3) the actor was a licensed peace officer who:
- 29 (A) was on active duty discharging an official
- 30 duty for an agency listed under Article 2A.001 [2.12], Code of
- 31 Criminal Procedure, and acting under the agency's direct
- 32 supervision; and
- 33 (B) was not privately employed as or hired on an
- 34 individual or independent contractor basis as a patrolman, guard,

- 1 watchman, flagman, or traffic conductor;
- 2 (4) the police chief consented, after determining that
- 3 consent would serve law enforcement interests in the municipality,
- 4 to the actor's:
- 5 (A) using or possessing a police identification
- 6 item or other insignia of the municipal police department;
- 7 (B) using, possessing, or wearing an item or
- 8 insignia similar to a police identification item or insignia of the
- 9 municipal police department; or
- 10 (C) operating a vehicle similar to a patrol
- 11 vehicle of the municipal police department; or
- 12 (5) the actor prosecuted under this section for
- 13 wearing a uniform wore a light blue uniform shirt in a municipality
- 14 that uses a light blue uniform shirt with navy blue pocket flaps and
- 15 epaulets for its police officers, if the actor's shirt did not have:
- 16 (A) the contrasting navy blue pocket flaps or
- 17 epaulets found on the municipal police officers' uniform shirts;
- 18 and
- 19 (B) a shoulder emblem similar in shape, color, or
- 20 design to an emblem found on the municipal police officers' uniform
- 21 shirts.
- SECTION 2.144. Section 351.903(b), Local Government Code,
- 23 is amended to read as follows:
- 24 (b) This authority includes the authority to:
- 25 (1) establish the hours of the curfew, including
- 26 different hours for different days of the week;
- 27 (2) apply different curfew hours to different age
- 28 groups of juveniles;
- 29 (3) describe the kinds of conduct subject to the
- 30 curfew;
- 31 (4) determine the locations to which the curfew
- 32 applies;
- 33 (5) determine which persons incur liability if a
- 34 violation of the curfew occurs;

- 1 (6) prescribe procedures, in compliance with Article
- 2 45A.455 [45.059], Code of Criminal Procedure, a police officer must
- 3 follow in enforcing the curfew; and
- 4 (7) establish exemptions to the curfew, including but
- 5 not limited to exemptions for times when there are no classes being
- 6 conducted, for holidays, and for persons going to or from work.
- 7 SECTION 2.145. Section 455.001(13), Occupations Code, is
- 8 amended to read as follows:
- 9 (13) "Peace officer" means a person who is a peace
- 10 officer under Article 2A.001 [2.12], Code of Criminal Procedure.
- 11 SECTION 2.146. Sections 1701.001(4) and (8), Occupations
- 12 Code, are amended to read as follows:
- 13 (4) "Peace officer" means a person elected, employed,
- 14 or appointed as a peace officer under Article 2A.001 [2.12], Code of
- 15 Criminal Procedure, or other law.
- 16 (8) "School marshal" means a person who:
- 17 (A) is appointed to serve as a school marshal by:
- 18 (i) the board of trustees of a school
- 19 district or the governing body of an open-enrollment charter school
- 20 under Section 37.0811, Education Code;
- 21 (ii) the governing body of a private school
- 22 under Section 37.0813, Education Code; or
- (iii) the governing board of a public
- 24 junior college under Section 51.220, Education Code;
- 25 (B) is licensed under Section 1701.260; and
- (C) has powers and duties described by Article
- 27 2A.008 [2.127], Code of Criminal Procedure.
- SECTION 2.147. Section 1701.164, Occupations Code, is
- 29 amended to read as follows:
- 30 Sec. 1701.164. COLLECTION OF CERTAIN INCIDENT-BASED DATA
- 31 SUBMITTED BY LAW ENFORCEMENT AGENCIES. The commission shall
- 32 collect and maintain incident-based data submitted to the
- 33 commission under Article 2B.0055 [2.134], Code of Criminal
- 34 Procedure, including incident-based data compiled by a law

- 1 enforcement agency from reports received by the law enforcement
- 2 agency under Article 2B.0054 [2.133] of that code. The commission
- 3 in consultation with the Department of Public Safety, the Bill
- 4 Blackwood Law Enforcement Management Institute of Texas, the W. W.
- 5 Caruth, Jr., Police Institute at Dallas, and the Texas Police
- 6 Chiefs Association shall develop guidelines for submitting in a
- 7 standard format the report containing incident-based data as
- 8 required by Article 2B.0055 [2.134], Code of Criminal Procedure.
- 9 SECTION 2.148. Section 1701.260(a-1), Occupations Code, is
- 10 amended to read as follows:
- 11 (a-1) In this section, "private school" has the meaning
- 12 assigned by Article 2A.008 [2.127], Code of Criminal Procedure.
- SECTION 2.149. Section 1701.3161(a), Occupations Code, is
- 14 amended to read as follows:
- 15 (a) In this section, "retired peace officer" means a person
- 16 who served as a peace officer in this state who:
- 17 (1) is not currently serving as an elected, appointed,
- 18 or employed peace officer under Article 2A.001 [2.12], Code of
- 19 Criminal Procedure, or other law;
- 20 (2) was eligible to retire from a law enforcement
- 21 agency in this state or was ineligible to retire only as a result of
- 22 an injury received in the course of the officer's employment with
- 23 the law enforcement agency; and
- 24 (3) is eligible to receive a pension or annuity for
- 25 service as a law enforcement officer in this state or is ineligible
- 26 to receive a pension or annuity only because the law enforcement
- 27 agency that employed the officer does not offer a pension or annuity
- 28 to its employees.
- SECTION 2.150. Section 1701.501(a), Occupations Code, is
- 30 amended to read as follows:
- 31 (a) Except as provided by Subsection (d), the commission
- 32 shall revoke or suspend a license, place on probation a person whose
- 33 license has been suspended, or reprimand a license holder for a
- 34 violation of:

- 1 (1) this chapter;
- 2 (2) the reporting requirements provided by Articles
- 3 <u>2B.0053</u> and <u>2B.0055</u> [2.132 and <u>2.134</u>], Code of Criminal Procedure;
- 4 or
- 5 (3) a commission rule.
- 6 SECTION 2.151. Section 1702.002(15), Occupations Code, is
- 7 amended to read as follows:
- 8 (15) "Peace officer" means a person who is a peace
- 9 officer under Article 2A.001 [2.12], Code of Criminal Procedure.
- SECTION 2.152. Section 2308.002(8-a), Occupations Code, is
- 11 amended to read as follows:
- 12 (8-a) "Peace officer" means a person who is a peace
- officer under Article 2A.001 [2.12], Code of Criminal Procedure.
- 14 SECTION 2.153. Sections 1.07(a)(36) and (46-b), Penal Code,
- 15 are amended to read as follows:
- 16 (36) "Peace officer" means a person elected, employed,
- or appointed as a peace officer under Article 2A.001 [2.12], Code of
- 18 Criminal Procedure, Section 51.212 or 51.214, Education Code, or
- 19 other law.
- 20 (46-b) "Federal special investigator" means a person
- 21 described by Article 2A.002 [2.122], Code of Criminal Procedure.
- 22 SECTION 2.154. Section 8.08(d), Penal Code, is amended to
- 23 read as follows:
- 24 (d) In this section, "child" has the meaning assigned by
- 25 Article 45A.453(a) [45.058(h)], Code of Criminal Procedure.
- SECTION 2.155. Section 9.54, Penal Code, is amended to read
- 27 as follows:
- Sec. 9.54. LIMITATION ON USE OF FORCE BY DRONE. (a) In
- 29 this section:
- 30 (1) "Autonomous drone" means a drone that operates
- 31 autonomously through computer software or other programming.
- 32 (2) "Drone" and "law enforcement agency" have the
- 33 meanings assigned by Article 2B.0253 [2.33], Code of Criminal
- 34 Procedure.

- 1 (b) Notwithstanding any other law, the use of force,
- 2 including deadly force, involving a drone is justified under this
- 3 subchapter only if:
- 4 (1) at the time the use of force occurred, the actor
- 5 was employed by a law enforcement agency;
- 6 (2) the use of force:
- 7 (A) would have been justified under another
- 8 provision of this subchapter; and
- 9 (B) did not involve the use of deadly force by
- 10 means of an autonomous drone; and
- 11 (3) before the use of force occurred, the law
- 12 enforcement agency employing the actor adopted and submitted to the
- 13 Texas Commission on Law Enforcement a policy on the agency's use of
- 14 force by means of a drone, as required by Article 2B.0253 [2.33],
- 15 Code of Criminal Procedure, and the use of force conformed to the
- 16 requirements of that policy.
- SECTION 2.156. Section 30.05(i), Penal Code, is amended to
- 18 read as follows:
- 19 (i) This section does not apply if:
- 20 (1) the basis on which entry on the property or land or
- 21 in the building was forbidden is that entry with a handgun or other
- 22 weapon was forbidden; and
- 23 (2) the actor at the time of the offense was a peace
- 24 officer, including a commissioned peace officer of a recognized
- 25 state, or a special investigator under Article 2A.002 [2.122], Code
- 26 of Criminal Procedure, regardless of whether the peace officer or
- 27 special investigator was engaged in the actual discharge of an
- 28 official duty while carrying the weapon.
- SECTION 2.157. Section 46.15(a), Penal Code, is amended to
- 30 read as follows:
- 31 (a) Sections 46.02 and 46.03 do not apply to:
- 32 (1) peace officers or special investigators under
- 33 Article 2A.002 [2.122], Code of Criminal Procedure, and neither
- 34 section prohibits a peace officer or special investigator from

- 1 carrying a weapon in this state, including in an establishment in
- 2 this state serving the public, regardless of whether the peace
- 3 officer or special investigator is engaged in the actual discharge
- 4 of the officer's or investigator's duties while carrying the
- 5 weapon;
- 6 (2) parole officers, and neither section prohibits an
- 7 officer from carrying a weapon in this state if the officer is:
- 8 (A) engaged in the actual discharge of the
- 9 officer's duties while carrying the weapon; and
- 10 (B) in compliance with policies and procedures
- 11 adopted by the Texas Department of Criminal Justice regarding the
- 12 possession of a weapon by an officer while on duty;
- 13 (3) community supervision and corrections department
- 14 officers appointed or employed under Section 76.004, Government
- 15 Code, and neither section prohibits an officer from carrying a
- 16 weapon in this state if the officer is:
- 17 (A) engaged in the actual discharge of the
- 18 officer's duties while carrying the weapon; and
- 19 (B) authorized to carry a weapon under Section
- 20 76.0051, Government Code;
- 21 (4) an active judicial officer as defined by Section
- 22 411.201, Government Code, who is licensed to carry a handgun under
- 23 Subchapter H, Chapter 411, Government Code;
- 24 (5) an honorably retired peace officer or other
- 25 qualified retired law enforcement officer, as defined by 18 U.S.C.
- 26 Section 926C, who holds a certificate of proficiency issued under
- 27 Section 1701.357, Occupations Code, and is carrying a photo
- 28 identification that is issued by a federal, state, or local law
- 29 enforcement agency, as applicable, and that verifies that the
- 30 officer is an honorably retired peace officer or other qualified
- 31 retired law enforcement officer;
- 32 (6) the attorney general or a United States attorney,
- 33 district attorney, criminal district attorney, county attorney, or
- 34 municipal attorney who is licensed to carry a handgun under

- 1 Subchapter H, Chapter 411, Government Code;
- 2 (7) an assistant United States attorney, assistant
- 3 attorney general, assistant district attorney, assistant criminal
- 4 district attorney, or assistant county attorney who is licensed to
- 5 carry a handgun under Subchapter H, Chapter 411, Government Code;
- 6 (8) a bailiff designated by an active judicial officer
- 7 as defined by Section 411.201, Government Code, who is:
- 8 (A) licensed to carry a handgun under Subchapter
- 9 H, Chapter 411, Government Code; and
- 10 (B) engaged in escorting the judicial officer;
- 11 (9) a juvenile probation officer who is authorized to
- 12 carry a firearm under Section 142.006, Human Resources Code; or
- 13 (10) a person who is volunteer emergency services
- 14 personnel if the person is:
- 15 (A) carrying a handgun under the authority of
- 16 Subchapter H, Chapter 411, Government Code; and
- 17 (B) engaged in providing emergency services.
- SECTION 2.158. Section 50.01(2), Penal Code, is amended to
- 19 read as follows:
- 20 (2) "Law enforcement officer" means a person who is a
- 21 peace officer under Article 2A.001 [2.12], Code of Criminal
- 22 Procedure, or a person who is a federal law enforcement officer, as
- 23 defined by 5 U.S.C. Section 8331(20).
- SECTION 2.159. Section 31.0391(b), Parks and Wildlife Code,
- 25 is amended to read as follows:
- 26 (b) This section does not apply to the release of
- 27 information to:
- 28 (1) a peace officer as defined by Article 2A.001
- 29 [2.12], Code of Criminal Procedure, who is acting in an official
- 30 capacity; or
- 31 (2) a state official or an official of a political
- 32 subdivision of this state who requests the information for tax
- 33 purposes.
- 34 SECTION 2.160. Section 61.201(e), Parks and Wildlife Code,

- 1 is amended to read as follows:
- 2 (e) This section may be enforced by any peace officer listed
- 3 in Article 2A.001 [2.12], Code of Criminal Procedure.
- 4 SECTION 2.161. Section 62.014(n), Parks and Wildlife Code,
- 5 is amended to read as follows:
- 6 (n) The following persons are exempt from any requirement to
- 7 complete a hunter education course under this section:
- 8 (1) an honorably discharged veteran of the United
- 9 States armed forces or a person who is on active duty as a member of
- 10 the United States armed forces;
- 11 (2) a person who is on active duty or has previously
- 12 served as a member of the Texas Army National Guard, the Texas Air
- 13 National Guard, or the Texas State Guard; or
- 14 (3) a person who is serving or has previously served as
- 15 a peace officer described by [Subdivision (1), (2), (3), or (4),
- 16 Article 2A.001(1), (2), (3), or (4) [2.12], Code of Criminal
- 17 Procedure.
- SECTION 2.162. Section 62.082(d), Parks and Wildlife Code,
- 19 is amended to read as follows:
- 20 (d) Section 62.081 does not apply to:
- 21 (1) an employee of the Lower Colorado River Authority;
- 22 (2) a person authorized to hunt under Subsection (c);
- 23 (3) a peace officer as defined by Article 2A.001
- [2.12], Code of Criminal Procedure; or
- 25 (4) a person who:
- 26 (A) possesses a handgun and a license issued
- 27 under Subchapter H, Chapter 411, Government Code, to carry a
- 28 handgun; or
- 29 (B) under circumstances in which the person would
- 30 be justified in the use of deadly force under Chapter 9, Penal Code,
- 31 shoots a handgun the person is licensed to carry under Subchapter H,
- 32 Chapter 411, Government Code.
- 33 SECTION 2.163. Section 201.910(b), Transportation Code, is
- 34 amended to read as follows:

- 1 (b) As used in this section, "peace officer" means a person
- 2 who was:
- 3 (1) a law enforcement officer or peace officer for
- 4 this state or a political subdivision of this state under Article
- 5 2A.001 [2.12], Code of Criminal Procedure, or other law; or
- 6 (2) a federal law enforcement officer or special agent
- 7 performing duties in this state, including those officers under
- 8 Article 2A.002 [2.122], Code of Criminal Procedure.
- 9 SECTION 2.164. Section 451.113(c), Transportation Code, is
- 10 amended to read as follows:
- 11 (c) Subsection (a) may be enforced by any peace officer
- 12 listed in Article 2A.001 [2.12], Code of Criminal Procedure, in
- 13 whose jurisdiction the offense is committed.
- SECTION 2.165. Section 472.022(f), Transportation Code, is
- 15 amended to read as follows:
- 16 (f) Subchapters G and H, Chapter 45A [Articles 45.051 and
- 17 45.0511], Code of Criminal Procedure, do not apply to an offense
- 18 under this section committed in a construction or maintenance work
- 19 zone when workers are present.
- SECTION 2.166. Section 502.452(c), Transportation Code, is
- 21 amended to read as follows:
- (c) A peace officer listed in Article <u>2A.001</u> [2.12], Code of
- 23 Criminal Procedure, may seize a motor vehicle displaying exempt
- 24 license plates if the vehicle is:
- 25 (1) operated on a public highway; and
- 26 (2) not identified in the manner prescribed by
- 27 Subsection (a) or (b), unless the vehicle is covered by Subsection
- 28 (f).
- 29 SECTION 2.167. Section 521.1211(a)(1), Transportation
- 30 Code, is amended to read as follows:
- 31 (1) "Peace officer" has the meaning assigned by
- 32 Article 2A.001 [2.12], Code of Criminal Procedure, except that the
- 33 term includes a special investigator as defined by Article 2A.002
- [2.122], Code of Criminal Procedure.

- 1 SECTION 2.168. Section 521.126(d), Transportation Code, is
- 2 amended to read as follows:
- 3 (d) The prohibition provided by Subsection (b) does not
- 4 apply to a person who accesses, uses, compiles, or maintains a
- 5 database of the information for a law enforcement or governmental
- 6 purpose, including:
- 7 (1) an officer or employee of the department carrying
- 8 out law enforcement or government purposes;
- 9 (2) a peace officer, as defined by Article 2A.001
- 10 [2.12], Code of Criminal Procedure, acting in the officer's
- 11 official capacity;
- 12 (3) a license deputy, as defined by Section 12.702,
- 13 Parks and Wildlife Code, issuing a license, stamp, tag, permit, or
- 14 other similar item through use of a point-of-sale system under
- 15 Section 12.703, Parks and Wildlife Code;
- 16 (4) a person acting as authorized by Section 109.61,
- 17 Alcoholic Beverage Code;
- 18 (5) a person establishing the identity of a voter
- 19 under Chapter 63, Election Code;
- 20 (6) a person acting as authorized by Section 161.0825,
- 21 Health and Safety Code; or
- 22 (7) a person screening an individual who will work
- 23 with or have access to children if the person is an employee or an
- 24 agent of an employee of a public school district or an organization
- 25 exempt from federal income tax under Section 501(c)(3), Internal
- 26 Revenue Code of 1986, as amended, that sponsors a program for youth.
- SECTION 2.169. Section 521.3451(a), Transportation Code,
- 28 is amended to read as follows:
- 29 (a) The department shall suspend or deny the issuance of a
- 30 driver's license or learner license on receipt of an order to
- 31 suspend or deny the issuance of either license from a justice or
- 32 municipal court under Article 45A.461 [45.050], Code of Criminal
- 33 Procedure.
- 34 SECTION 2.170. Section 521.453(c), Transportation Code, is

- 1 amended to read as follows:
- 2 (c) A peace officer listed in Article 2A.001 [2.12], Code of
- 3 Criminal Procedure, may confiscate a document that:
- 4 (1) is deceptively similar to a driver's license or
- 5 personal identification certificate; and
- 6 (2) does not display the statement required under
- 7 Subsection (a).
- 8 SECTION 2.171. Section 541.201(13-a), Transportation Code,
- 9 is amended to read as follows:
- 10 (13-a) "Police vehicle" means a vehicle used by a
- 11 peace officer, as defined by Article 2A.001 [2.12], Code of
- 12 Criminal Procedure, for law enforcement purposes that:
- 13 (A) is owned or leased by a governmental entity;
- 14 (B) is owned or leased by the police department
- 15 of a private institution of higher education that commissions peace
- 16 officers under Section 51.212, Education Code; or
- 17 (C) is:
- (i) a private vehicle owned or leased by the
- 19 peace officer; and
- 20 (ii) approved for use for law enforcement
- 21 purposes by the head of the law enforcement agency that employs the
- 22 peace officer, or by that person's designee, provided that use of
- 23 the private vehicle must, if applicable, comply with any rule
- 24 adopted by the commissioners court of a county under Section
- 25 170.001, Local Government Code, and that the private vehicle may
- 26 not be considered an authorized emergency vehicle for exemption
- 27 purposes under Section 228.054, 284.070, 366.178, or 370.177 of
- 28 this code [, Transportation Code,] unless the vehicle is marked.
- SECTION 2.172. Section 542.304(b), Transportation Code, is
- 30 amended to read as follows:
- 31 (b) The rules must provide that for the purposes of the
- 32 provisions described in Subsection (a), moving violations:
- 33 (1) include:
- 34 (A) a violation of the traffic law of this state,

- 1 another state, or a political subdivision of this or another state;
- 2 and
- 3 (B) an offense under Section 545.412; and
- 4 (2) do not include:
- 5 (A) an offense committed before September 1,
- 6 2003;
- 7 (B) the offense of speeding when the person
- 8 convicted was at the time of the offense driving less than 10
- 9 percent faster than the posted speed limit, unless the person
- 10 committed the offense in a school crossing zone;
- 11 (C) an offense adjudicated under Subchapter G or
- 12 H, Chapter 45A [Article 45.051 or 45.0511], Code of Criminal
- 13 Procedure; or
- 14 (D) an offense under Section 545.4251.
- 15 SECTION 2.173. Sections 542.402(b) and (b-2),
- 16 Transportation Code, are amended to read as follows:
- 17 (b) In each fiscal year, a municipality having a population
- 18 of less than 5,000 may retain, from fines collected for violations
- 19 of this title and fines collected under Article 45A.302
- 20 [45.051(a)], Code of Criminal Procedure, in cases in which a
- 21 violation of this title is alleged, an amount equal to 30 percent of
- 22 the municipality's revenue for the preceding fiscal year from all
- 23 sources, other than federal funds and bond proceeds, as shown by the
- 24 audit performed under Section 103.001, Local Government Code.
- 25 After a municipality has retained that amount, the municipality
- 26 shall send to the comptroller any portion of a fine collected that
- 27 exceeds \$1.
- 28 (b-2) In each fiscal year, a county described by Subsection
- 29 (b-1) may retain, from fines collected for violations of this title
- 30 and from fines collected under Article 45A.302 [45.051(a)], Code of
- 31 Criminal Procedure, in cases in which a violation of this title is
- 32 alleged, an amount equal to 30 percent of the county's revenue for
- 33 the preceding fiscal year from all sources, other than federal
- 34 funds and bond proceeds, as shown by an audit performed under

- 1 Chapter 115, Local Government Code. After a county has retained
- 2 that amount, the county shall send to the comptroller any portion of
- 3 a fine collected that exceeds \$1.
- 4 SECTION 2.174. Section 543.202(b), Transportation Code, is
- 5 amended to read as follows:
- 6 (b) The record must be made on a form or by a data processing
- 7 method acceptable to the department and must include:
- 8 (1) the name, address, physical description,
- 9 including race or ethnicity, date of birth, and driver's license
- 10 number of the person charged;
- 11 (2) the registration number of the vehicle involved;
- 12 (3) whether the vehicle was a commercial motor vehicle
- 13 as defined by Chapter 522 or was involved in transporting hazardous
- 14 materials;
- 15 (4) the person's social security number, if the person
- 16 was operating a commercial motor vehicle or was the holder of a
- 17 commercial driver's license or commercial learner's permit;
- 18 (5) the date and nature of the offense, including
- 19 whether the offense was a serious traffic violation as defined by
- 20 Chapter 522;
- 21 (6) whether a search of the vehicle was conducted and
- 22 whether consent for the search was obtained;
- 23 (7) the plea, the judgment, whether the individual was
- 24 adjudicated under <u>Subchapter H, Chapter 45A</u> [Article 45.0511], Code
- 25 of Criminal Procedure, and whether bail was forfeited;
- 26 (8) the date of conviction; and
- 27 (9) the amount of the fine or forfeiture.
- SECTION 2.175. Section 543.204(a), Transportation Code, is
- 29 amended to read as follows:
- 30 (a) A justice of the peace or municipal judge who defers
- 31 further proceedings and $[\tau]$ suspends all or part of the imposition
- 32 of the fine[, and places a defendant on probation] under Subchapter
- 33 G, Chapter 45A [Article 45.051], Code of Criminal Procedure, or a
- 34 county court judge who follows that procedure under Article 42.111,

- 1 Code of Criminal Procedure, may not submit a written record to the
- 2 department, except that if the justice or judge subsequently
- 3 adjudicates the defendant's guilt, the justice or judge shall
- 4 submit the record not later than the seventh day after the date on
- 5 which the justice or judge adjudicates guilt.
- 6 SECTION 2.176. Section 545.305(a), Transportation Code, is
- 7 amended to read as follows:
- 8 (a) A peace officer listed under Article 2A.001 [2.12], Code
- 9 of Criminal Procedure, or a license and weight inspector of the
- 10 department may remove or require the operator or a person in charge
- 11 of a vehicle to move a vehicle from a highway if the vehicle:
- 12 (1) is unattended on a bridge, viaduct, or causeway or
- 13 in a tube or tunnel and the vehicle is obstructing traffic;
- 14 (2) is unlawfully parked and blocking the entrance to
- 15 a private driveway;
- 16 (3) has been reported as stolen;
- 17 (4) is identified as having been stolen in a warrant
- 18 issued on the filing of a complaint;
- 19 (5) is unattended and the officer has reasonable
- 20 grounds to believe that the vehicle has been abandoned for longer
- 21 than 48 hours;
- 22 (6) is disabled so that normal operation is impossible
- 23 or impractical and the owner or person in charge of the vehicle is:
- 24 (A) incapacitated and unable to provide for the
- 25 vehicle's removal or custody; or
- 26 (B) not in the immediate vicinity of the vehicle;
- 27 (7) is disabled so that normal operation is impossible
- 28 or impractical and the owner or person in charge of the vehicle does
- 29 not designate a particular towing or storage company;
- 30 (8) is operated by a person an officer arrests for an
- 31 alleged offense and the officer is required by law to take the
- 32 person into custody; or
- 33 (9) is, in the opinion of the officer, a hazard,
- 34 interferes with a normal function of a governmental agency, or

- 1 because of a catastrophe, emergency, or unusual circumstance is
- 2 imperiled.
- 3 SECTION 2.177. Section 601.053(a), Transportation Code, is
- 4 amended to read as follows:
- 5 (a) As a condition of operating in this state a motor
- 6 vehicle to which Section 601.051 applies, the operator of the
- 7 vehicle on request shall provide to a peace officer, as defined by
- 8 Article 2A.001 [$\frac{2.12}{}$], Code of Criminal Procedure, or a person
- 9 involved in an accident with the operator evidence of financial
- 10 responsibility by exhibiting:
- 11 (1) a motor vehicle liability insurance policy
- 12 covering the vehicle that satisfies Subchapter D or a photocopy of
- 13 the policy;
- 14 (2) a standard proof of motor vehicle liability
- 15 insurance form prescribed by the Texas Department of Insurance
- 16 under Section 601.081 and issued by a liability insurer for the
- 17 motor vehicle;
- 18 (2-a) an image displayed on a wireless communication
- 19 device that includes the information required by Section 601.081 as
- 20 provided by a liability insurer;
- 21 (3) an insurance binder that confirms the operator is
- 22 in compliance with this chapter;
- 23 (4) a surety bond certificate issued under Section
- 24 601.121;
- 25 (5) a certificate of a deposit with the comptroller
- 26 covering the vehicle issued under Section 601.122;
- 27 (6) a copy of a certificate of a deposit with the
- 28 appropriate county judge covering the vehicle issued under Section
- 29 601.123; or
- 30 (7) a certificate of self-insurance covering the
- 31 vehicle issued under Section 601.124 or a photocopy of the
- 32 certificate.
- 33 SECTION 2.178. Section 706.001(1), Transportation Code, is
- 34 amended to read as follows:

```
1 (1) "Complaint" means a notice of an offense as
```

- 2 described by Article 27.14(d) or 45A.101 [45.019], Code of Criminal
- 3 Procedure.
- 4 SECTION 2.179. Sections 721.005(a) and (b), Transportation
- 5 Code, are amended to read as follows:
- 6 (a) The governing body of a municipality may exempt from the
- 7 requirements of Section 721.004:
- 8 (1) an automobile when used to perform an official
- 9 duty by a:
- 10 (A) police department;
- 11 (B) magistrate as defined by Article 2A.151
- 12 [2.09], Code of Criminal Procedure;
- 13 (C) medical examiner;
- 14 (D) municipal code enforcement officer
- 15 designated to enforce environmental criminal laws; or
- 16 (E) municipal fire marshal or arson
- 17 investigator; or
- 18 (2) an automobile used by a municipal employee only
- 19 when conducting an investigation involving suspected fraud or other
- 20 mismanagement within the municipality.
- 21 (b) The commissioners court of a county may exempt from the
- 22 requirements of Section 721.004:
- 23 (1) an automobile when used to perform an official
- 24 duty by a:
- 25 (A) police department;
- 26 (B) sheriff's office;
- 27 (C) constable's office;
- 28 (D) criminal district attorney's office;
- 29 (E) district attorney's office;
- 30 (F) county attorney's office;
- 31 (G) magistrate as defined by Article <u>2A.151</u>
- 32 [2.09], Code of Criminal Procedure;
- 33 (H) county fire marshal's office; or
- 34 (I) medical examiner; or

- 1 (2) a juvenile probation department vehicle used to
- 2 transport children, when used to perform an official duty.
- 3 SECTION 2.180. Section 25.025(a), Tax Code, is amended to
- 4 read as follows:
- 5 (a) This section applies only to:
- 6 (1) a current or former peace officer as defined by
- 7 Article 2A.001 [2.12], Code of Criminal Procedure, and the spouse
- 8 or surviving spouse of the peace officer;
- 9 (2) the adult child of a current peace officer as
- 10 defined by Article 2A.001 [2.12], Code of Criminal Procedure;
- 11 (3) a current or honorably retired county jailer as
- 12 defined by Section 1701.001, Occupations Code;
- 13 (4) an employee of the Texas Department of Criminal
- 14 Justice;
- 15 (5) a commissioned security officer as defined by
- 16 Section 1702.002, Occupations Code;
- 17 (6) an individual who shows that the individual, the
- 18 individual's child, or another person in the individual's household
- 19 is a victim of family violence as defined by Section 71.004, Family
- 20 Code, by providing:
- 21 (A) a copy of a protective order issued under
- 22 Chapter 85, Family Code, or a magistrate's order for emergency
- 23 protection issued under Article 17.292, Code of Criminal Procedure;
- 24 or
- 25 (B) other independent documentary evidence
- 26 necessary to show that the individual, the individual's child, or
- 27 another person in the individual's household is a victim of family
- 28 violence;
- 29 (7) an individual who shows that the individual, the
- 30 individual's child, or another person in the individual's household
- 31 is a victim of sexual assault or abuse, stalking, or trafficking of
- 32 persons by providing:
- (A) a copy of a protective order issued under
- 34 Subchapter A or B, Chapter 7B, Code of Criminal Procedure, or a

- 1 magistrate's order for emergency protection issued under Article
- 2 17.292, Code of Criminal Procedure; or
- 3 (B) other independent documentary evidence
- 4 necessary to show that the individual, the individual's child, or
- 5 another person in the individual's household is a victim of sexual
- 6 assault or abuse, stalking, or trafficking of persons;
- 7 (8) a participant in the address confidentiality
- 8 program administered by the attorney general under Subchapter B,
- 9 Chapter 58, Code of Criminal Procedure, who provides proof of
- 10 certification under Article 58.059, Code of Criminal Procedure;
- 11 (9) a federal judge, a federal bankruptcy judge, a
- 12 marshal of the United States Marshals Service, a state judge, or a
- 13 family member of a federal judge, a federal bankruptcy judge, a
- 14 marshal of the United States Marshals Service, or a state judge;
- 15 (10) a current or former district attorney, criminal
- 16 district attorney, or county or municipal attorney whose
- 17 jurisdiction includes any criminal law or child protective services
- 18 matters;
- 19 (11) a current or former employee of a district
- 20 attorney, criminal district attorney, or county or municipal
- 21 attorney whose jurisdiction includes any criminal law or child
- 22 protective services matters;
- 23 (12) an officer or employee of a community supervision
- 24 and corrections department established under Chapter 76,
- 25 Government Code, who performs a duty described by Section 76.004(b)
- 26 of that code;
- 27 (13) a criminal investigator of the United States as
- 28 described by Article 2A.002(a) [$\frac{2.122(a)}{a}$], Code of Criminal
- 29 Procedure;
- 30 (14) a current or honorably retired police officer or
- 31 inspector of the United States Federal Protective Service;
- 32 (15) a current or former United States attorney,
- 33 assistant United States attorney, federal public defender, deputy
- 34 federal public defender, or assistant federal public defender and

- 1 the spouse and child of the attorney or public defender;
- 2 (16) a current or former employee of the office of the
- 3 attorney general who is or was assigned to a division of that office
- 4 the duties of which involve law enforcement;
- 5 (17) a medical examiner or person who performs
- 6 forensic analysis or testing who is employed by this state or one or
- 7 more political subdivisions of this state;
- 8 (18) a current or former member of the United States
- 9 armed forces who has served in an area that the president of the
- 10 United States by executive order designates for purposes of 26
- 11 U.S.C. Section 112 as an area in which armed forces of the United
- 12 States are or have engaged in combat;
- 13 (19) a current or former employee of the Texas
- 14 Juvenile Justice Department or of the predecessors in function of
- 15 the department;
- 16 (20) a current or former juvenile probation or
- 17 supervision officer certified by the Texas Juvenile Justice
- 18 Department, or the predecessors in function of the department,
- 19 under Title 12, Human Resources Code;
- 20 (21) a current or former employee of a juvenile
- 21 justice program or facility, as those terms are defined by Section
- 22 261.405, Family Code;
- 23 (22) a current or former employee of the Texas Civil
- 24 Commitment Office or the predecessor in function of the office or a
- 25 division of the office;
- 26 (23) a current or former employee of a federal judge or
- 27 state judge;
- 28 (24) a current or former child protective services
- 29 caseworker, adult protective services caseworker, or investigator
- 30 for the Department of Family and Protective Services or a current or
- 31 former employee of a department contractor performing child
- 32 protective services caseworker, adult protective services
- 33 caseworker, or investigator functions for the contractor on behalf
- 34 of the department;

- 1 (25) an elected public officer; and
- 2 (26) a firefighter or volunteer firefighter or
- 3 emergency medical services personnel as defined by Section 773.003,
- 4 Health and Safety Code.
- 5 SECTION 2.181. Section 7.193, Water Code, is amended to
- 6 read as follows:
- 7 Sec. 7.193. PEACE OFFICERS. For purposes of this
- 8 subchapter, the authorized agents and employees of the Parks and
- 9 Wildlife Department are peace officers. Those agents and employees
- 10 are empowered to enforce this subchapter the same as any other peace
- 11 officer and for that purpose have the powers and duties of peace
- 12 officers assigned by Chapter 2A $[\frac{2}{2}]$, Code of Criminal Procedure.
- SECTION 2.182. Section 7.203(b), Water Code, is amended to
- 14 read as follows:
- 15 (b) Before a peace officer, as that term is defined in
- 16 Section 7.193 of this code or Chapter 2A [2], Code of Criminal
- 17 Procedure, may refer any alleged criminal environmental violation
- 18 by a person holding a permit issued by the commission or an employee
- 19 of that person of this code, of the Health and Safety Code, or of any
- 20 other statute, rule, order, permit, or other decision of the
- 21 commission that is within the commission's jurisdiction to a
- 22 prosecuting attorney for criminal prosecution, the peace officer
- 23 shall notify the commission in writing of the alleged criminal
- 24 environmental violation and include with the notification a report
- 25 describing the facts and circumstances of the alleged criminal
- 26 environmental violation. This section does not prohibit a peace
- 27 officer from issuing a citation or making an arrest.
- SECTION 2.183. Section 60.077(b), Water Code, is amended to
- 29 read as follows:
- 30 (b) A peace officer employed or appointed by the commission
- 31 has the same powers and duties as a peace officer described by
- 32 Article 2A.001 [2.12], Code of Criminal Procedure.
- 33 SECTION 2.184. Sections 60.0775(f), (g), and (i), Water
- 34 Code, are amended to read as follows:

- 1 (f) A reserve force member who is not a peace officer as
- 2 described by Article 2A.001 [2.12], Code of Criminal Procedure, may
- 3 act as a peace officer only during the discharge of official duties.
- 4 A reserve force member who is a peace officer under that article
- 5 must hold a permanent peace officer license issued under Chapter
- 6 1701, Occupations Code.
- 7 (g) The commission must approve an appointment to the
- 8 reserve force before the person appointed may carry a weapon or
- 9 otherwise act as a peace officer. On approval of the appointment of
- 10 a person who is not a peace officer as described by Article 2A.001
- 11 [2.12], Code of Criminal Procedure, the person appointed may carry
- 12 a weapon only when authorized to do so by the chief of police and
- 13 only when discharging official duties as a peace officer. On
- 14 approval of the appointment of a person who is a peace officer as
- 15 described by Article $\underline{2A.001}$ [$\underline{2.12}$], Code of Criminal Procedure, the
- 16 chief of police may:
- 17 (1) authorize the person appointed to carry a weapon
- 18 or act as a peace officer at all times, regardless of whether the
- 19 person is engaged in the discharge of official duties; or
- 20 (2) limit the person's authority to carry a weapon or
- 21 act as a peace officer to only those times during which the person
- 22 is engaged in the discharge of official duties.
- (i) A reserve police officer, regardless of whether the
- 24 reserve police officer is a peace officer as described by Article
- 25 2A.001 [2.12], Code of Criminal Procedure, is not:
- 26 (1) eligible for participation in:
- 27 (A) a program provided by the commission that is
- 28 normally considered a financial benefit of full-time employment; or
- 29 (B) a pension fund created by statute for the
- 30 benefit of full-time paid peace officers; or
- 31 (2) exempt from Chapter 1702, Occupations Code.
- 32 REPEALER
- 33 SECTION 3.001. REPEALER. The following laws are repealed:
- 34 (1) Articles 2.01, 2.02, 2.021, 2.022, 2.023, 2.024,

- 1 2.04, 2.05, 2.06, 2.07, 2.08, 2.09, 2.10, 2.12, 2.121, 2.122,
- 2 2.123, 2.124, 2.125, 2.126, 2.127, 2.13, 2.1305, 2.131, 2.132,
- 3 2.133, 2.134, 2.136, 2.137, 2.138, 2.1385, 2.1386, 2.1387, 2.139,
- 4 2.1395, 2.13951, 2.1396, 2.1397, 2.14, 2.15, 2.16, 2.17, 2.18,
- 5 2.19, 2.195, 2.20, 2.21, 2.211, 2.212, 2.22, 2.23, 2.25, 2.251,
- 6 2.27, 2.271, 2.272, 2.273, 2.28, 2.29, 2.295, 2.30, 2.305, and
- 7 2.32, Code of Criminal Procedure;
- 8 (2) Article 2.03(a), Code of Criminal Procedure;
- 9 (3) Article 2.31, Code of Criminal Procedure, as added
- 10 by Chapters 176 (S.B. 604) and 1341 (S.B. 1233), Acts of the 82nd
- 11 Legislature, Regular Session, 2011;
- 12 (4) Article 2.33, Code of Criminal Procedure, as added
- 13 by Chapters 534 (S.B. 69), 979 (S.B. 2212), and 1011 (H.B. 1758),
- 14 Acts of the 87th Legislature, Regular Session, 2021;
- 15 (5) Article 3.05, Code of Criminal Procedure;
- 16 (6) Chapters 13, 31, 45, and 55, Code of Criminal
- 17 Procedure; and
- 18 (7) Subchapter N, Chapter 1701, Occupations Code.
- 19 GENERAL MATTERS
- SECTION 4.001. This Act is enacted under Section 43,
- 21 Article III, Texas Constitution. This Act is intended as a
- 22 codification only, and no substantive change in the law is intended
- 23 by this Act.
- SECTION 4.002. (a) Chapter 311, Government Code (Code
- 25 Construction Act), applies to the construction of each provision in
- 26 the Code of Criminal Procedure that is enacted under Section 43,
- 27 Article III, Texas Constitution (authorizing the continuing
- 28 statutory revision program), in the same manner as to a code enacted
- 29 under the continuing statutory revision program, except as
- 30 otherwise expressly provided by the Code of Criminal Procedure.
- 31 (b) A reference in a law to a statute or a part of a statute
- 32 in the Code of Criminal Procedure enacted under Section 43, Article
- 33 III, Texas Constitution (authorizing the continuing statutory
- 34 revision program), is considered to be a reference to the part of

- 1 that code that revises that statute or part of that statute.
- 2 SECTION 4.003. This Act takes effect January 1, 2025.

- 1 APPENDIX B
- 2 CHAPTER 311. CODE CONSTRUCTION ACT
- 3 (current as of end of 87th Legislature, Regular Session, 2021)
- 4 SUBCHAPTER A. GENERAL PROVISIONS
- 5 Sec. 311.001. SHORT TITLE. This chapter may be cited as the
- 6 Code Construction Act.
- 7 Sec. 311.002. APPLICATION. This chapter applies to:
- 8 (1) each code enacted by the 60th or a subsequent
- 9 legislature as part of the state's continuing statutory revision
- 10 program;
- 11 (2) each amendment, repeal, revision, and reenactment
- 12 of a code or code provision by the 60th or a subsequent legislature;
- 13 (3) each repeal of a statute by a code; and
- 14 (4) each rule adopted under a code.
- 15 Sec. 311.003. RULES NOT EXCLUSIVE. The rules provided in
- 16 this chapter are not exclusive but are meant to describe and clarify
- 17 common situations in order to guide the preparation and
- 18 construction of codes.
- 19 Sec. 311.004. CITATION OF CODES. A code may be cited by its
- 20 name preceded by the specific part concerned. Examples of
- 21 citations are:
- 22 (1) Title 1, Business & Commerce Code;
- 23 (2) Chapter 5, Business & Commerce Code;
- 24 (3) Section 9.304, Business & Commerce Code;
- 25 (4) Section 15.06(a), Business & Commerce Code; and
- 26 (5) Section 17.18(b)(1)(B)(ii), Business & Commerce
- 27 Code.
- 28 Sec. 311.005. GENERAL DEFINITIONS. The following
- 29 definitions apply unless the statute or context in which the word or
- 30 phrase is used requires a different definition:
- 31 (1) "Oath" includes affirmation.
- 32 (2) "Person" includes corporation, organization,
- 33 government or governmental subdivision or agency, business trust,
- 34 estate, trust, partnership, association, and any other legal

- 1 entity.
- 2 (3) "Population" means the population shown by the
- 3 most recent federal decennial census.
- 4 (4) "Property" means real and personal property.
- 5 (5) "Rule" includes regulation.
- 6 (6) "Signed" includes any symbol executed or adopted
- 7 by a person with present intention to authenticate a writing.
- 8 (7) "State," when referring to a part of the United
- 9 States, includes any state, district, commonwealth, territory, and
- 10 insular possession of the United States and any area subject to the
- 11 legislative authority of the United States of America.
- 12 (8) "Swear" includes affirm.
- 13 (9) "United States" includes a department, bureau, or
- 14 other agency of the United States of America.
- 15 "Week" means seven consecutive days.
- 16 (11) "Written" includes any representation of words,
- 17 letters, symbols, or figures.
- 18 (12) "Year" means 12 consecutive months.
- 19 (13) "Includes" and "including" are terms of
- 20 enlargement and not of limitation or exclusive enumeration, and use
- 21 of the terms does not create a presumption that components not
- 22 expressed are excluded.
- Sec. 311.006. INTERNAL REFERENCES. In a code:
- 24 (1) a reference to a title, chapter, or section
- 25 without further identification is a reference to a title, chapter,
- 26 or section of the code; and
- 27 (2) a reference to a subtitle, subchapter, subsection,
- 28 subdivision, paragraph, or other numbered or lettered unit without
- 29 further identification is a reference to a unit of the next larger
- 30 unit of the code in which the reference appears.
- 31 SUBCHAPTER B. CONSTRUCTION OF WORDS AND PHRASES
- 32 Sec. 311.011. COMMON AND TECHNICAL USAGE OF WORDS. (a)
- 33 Words and phrases shall be read in context and construed according
- 34 to the rules of grammar and common usage.

- 1 (b) Words and phrases that have acquired a technical or
- 2 particular meaning, whether by legislative definition or
- 3 otherwise, shall be construed accordingly.
- 4 Sec. 311.012. TENSE, NUMBER, AND GENDER. (a) Words in the
- 5 present tense include the future tense.
- 6 (b) The singular includes the plural and the plural includes
- 7 the singular.
- 8 (c) Words of one gender include the other genders.
- 9 Sec. 311.013. AUTHORITY AND QUORUM OF PUBLIC BODY. (a) A
- 10 grant of authority to three or more persons as a public body confers
- 11 the authority on a majority of the number of members fixed by
- 12 statute.
- 13 (b) A quorum of a public body is a majority of the number of
- 14 members fixed by statute.
- 15 Sec. 311.014. COMPUTATION OF TIME. (a) In computing a
- 16 period of days, the first day is excluded and the last day is
- 17 included.
- 18 (b) If the last day of any period is a Saturday, Sunday, or
- 19 legal holiday, the period is extended to include the next day that
- 20 is not a Saturday, Sunday, or legal holiday.
- (c) If a number of months is to be computed by counting the
- 22 months from a particular day, the period ends on the same numerical
- 23 day in the concluding month as the day of the month from which the
- 24 computation is begun, unless there are not that many days in the
- 25 concluding month, in which case the period ends on the last day of
- 26 that month.
- Sec. 311.015. REFERENCE TO A SERIES. If a statute refers to
- 28 a series of numbers or letters, the first and last numbers or
- 29 letters are included.
- 30 Sec. 311.016. "MAY," "SHALL," "MUST," ETC. The following
- 31 constructions apply unless the context in which the word or phrase
- 32 appears necessarily requires a different construction or unless a
- 33 different construction is expressly provided by statute:
- 34 (1) "May" creates discretionary authority or grants

- 1 permission or a power.
- 2 (2) "Shall" imposes a duty.
- 3 (3) "Must" creates or recognizes a condition
- 4 precedent.
- 5 (4) "Is entitled to" creates or recognizes a right.
- 6 (5) "May not" imposes a prohibition and is synonymous
- 7 with "shall not."
- 8 (6) "Is not entitled to" negates a right.
- 9 (7) "Is not required to" negates a duty or condition
- 10 precedent.
- 11 SUBCHAPTER C. CONSTRUCTION OF STATUTES
- 12 Sec. 311.021. INTENTION IN ENACTMENT OF STATUTES. In
- 13 enacting a statute, it is presumed that:
- 14 (1) compliance with the constitutions of this state
- 15 and the United States is intended;
- 16 (2) the entire statute is intended to be effective;
- 17 (3) a just and reasonable result is intended;
- 18 (4) a result feasible of execution is intended; and
- 19 (5) public interest is favored over any private
- 20 interest.
- Sec. 311.022. PROSPECTIVE OPERATION OF STATUTES. A statute
- 22 is presumed to be prospective in its operation unless expressly
- 23 made retrospective.
- Sec. 311.023. STATUTE CONSTRUCTION AIDS. In construing a
- 25 statute, whether or not the statute is considered ambiguous on its
- 26 face, a court may consider among other matters the:
- 27 (1) object sought to be attained;
- 28 (2) circumstances under which the statute was enacted;
- 29 (3) legislative history;
- 30 (4) common law or former statutory provisions,
- 31 including laws on the same or similar subjects;
- 32 (5) consequences of a particular construction;
- 33 (6) administrative construction of the statute; and
- 34 (7) title (caption), preamble, and emergency

- 1 provision.
- 2 Sec. 311.024. HEADINGS. The heading of a title, subtitle,
- 3 chapter, subchapter, or section does not limit or expand the
- 4 meaning of a statute.
- 5 Sec. 311.025. IRRECONCILABLE STATUTES AND AMENDMENTS. (a)
- 6 Except as provided by Section 311.031(d), if statutes enacted at
- 7 the same or different sessions of the legislature are
- 8 irreconcilable, the statute latest in date of enactment prevails.
- 9 (b) Except as provided by Section 311.031(d), if amendments
- 10 to the same statute are enacted at the same session of the
- 11 legislature, one amendment without reference to another, the
- 12 amendments shall be harmonized, if possible, so that effect may be
- 13 given to each. If the amendments are irreconcilable, the latest in
- 14 date of enactment prevails.
- 15 (c) In determining whether amendments are irreconcilable,
- 16 text that is reenacted because of the requirement of Article III,
- 17 Section 36, of the Texas Constitution is not considered to be
- 18 irreconcilable with additions or omissions in the same text made by
- 19 another amendment. Unless clearly indicated to the contrary, an
- 20 amendment that reenacts text in compliance with that constitutional
- 21 requirement does not indicate legislative intent that the reenacted
- 22 text prevail over changes in the same text made by another
- 23 amendment, regardless of the relative dates of enactment.
- 24 (d) In this section, the date of enactment is the date on
- 25 which the last legislative vote is taken on the bill enacting the
- 26 statute.
- 27 (e) If the journals or other legislative records fail to
- 28 disclose which of two or more bills in conflict is latest in date of
- 29 enactment, the date of enactment of the respective bills is
- 30 considered to be, in order of priority:
- 31 (1) the date on which the last presiding officer
- 32 signed the bill;
- 33 (2) the date on which the governor signed the bill; or
- 34 (3) the date on which the bill became law by operation

453

- 1 of law.
- 2 Sec. 311.026. SPECIAL OR LOCAL PROVISION PREVAILS OVER
- 3 GENERAL. (a) If a general provision conflicts with a special or
- 4 local provision, the provisions shall be construed, if possible, so
- 5 that effect is given to both.
- 6 (b) If the conflict between the general provision and the
- 7 special or local provision is irreconcilable, the special or local
- 8 provision prevails as an exception to the general provision, unless
- 9 the general provision is the later enactment and the manifest
- 10 intent is that the general provision prevail.
- 11 Sec. 311.027. STATUTORY REFERENCES. Unless expressly
- 12 provided otherwise, a reference to any portion of a statute or rule
- 13 applies to all reenactments, revisions, or amendments of the
- 14 statute or rule.
- 15 Sec. 311.028. UNIFORM CONSTRUCTION OF UNIFORM ACTS. A
- 16 uniform act included in a code shall be construed to effect its
- 17 general purpose to make uniform the law of those states that enact
- 18 it.
- 19 Sec. 311.029. ENROLLED BILL CONTROLS. If the language of
- 20 the enrolled bill version of a statute conflicts with the language
- 21 of any subsequent printing or reprinting of the statute, the
- 22 language of the enrolled bill version controls.
- Sec. 311.030. REPEAL OF REPEALING STATUTE. The repeal of a
- 24 repealing statute does not revive the statute originally repealed
- 25 nor impair the effect of any saving provision in it.
- Sec. 311.031. SAVING PROVISIONS. (a) Except as provided by
- 27 Subsection (b), the reenactment, revision, amendment, or repeal of
- 28 a statute does not affect:
- 29 (1) the prior operation of the statute or any prior
- 30 action taken under it;
- 31 (2) any validation, cure, right, privilege,
- 32 obligation, or liability previously acquired, accrued, accorded,
- 33 or incurred under it;
- 34 (3) any violation of the statute or any penalty,

- 1 forfeiture, or punishment incurred under the statute before its
- 2 amendment or repeal; or
- 3 (4) any investigation, proceeding, or remedy
- 4 concerning any privilege, obligation, liability, penalty,
- 5 forfeiture, or punishment; and the investigation, proceeding, or
- 6 remedy may be instituted, continued, or enforced, and the penalty,
- 7 forfeiture, or punishment imposed, as if the statute had not been
- 8 repealed or amended.
- 9 (b) If the penalty, forfeiture, or punishment for any
- 10 offense is reduced by a reenactment, revision, or amendment of a
- 11 statute, the penalty, forfeiture, or punishment, if not already
- 12 imposed, shall be imposed according to the statute as amended.
- 13 (c) The repeal of a statute by a code does not affect an
- 14 amendment, revision, or reenactment of the statute by the same
- 15 legislature that enacted the code. The amendment, revision, or
- 16 reenactment is preserved and given effect as part of the code
- 17 provision that revised the statute so amended, revised, or
- 18 reenacted.
- 19 (d) If any provision of a code conflicts with a statute
- 20 enacted by the same legislature that enacted the code, the statute
- 21 controls.
- Sec. 311.032. SEVERABILITY OF STATUTES. (a) If any statute
- 23 contains a provision for severability, that provision prevails in
- 24 interpreting that statute.
- 25 (b) If any statute contains a provision for
- 26 nonseverability, that provision prevails in interpreting that
- 27 statute.
- (c) In a statute that does not contain a provision for
- 29 severability or nonseverability, if any provision of the statute or
- 30 its application to any person or circumstance is held invalid, the
- 31 invalidity does not affect other provisions or applications of the
- 32 statute that can be given effect without the invalid provision or
- 33 application, and to this end the provisions of the statute are
- 34 severable.

- 1 Sec. 311.034. WAIVER OF SOVEREIGN IMMUNITY. In order to
- 2 preserve the legislature's interest in managing state fiscal
- 3 matters through the appropriations process, a statute shall not be
- 4 construed as a waiver of sovereign immunity unless the waiver is
- 5 effected by clear and unambiguous language. In a statute, the use
- 6 of "person," as defined by Section 311.005 to include governmental
- 7 entities, does not indicate legislative intent to waive sovereign
- 8 immunity unless the context of the statute indicates no other
- 9 reasonable construction. Statutory prerequisites to a suit,
- 10 including the provision of notice, are jurisdictional requirements
- 11 in all suits against a governmental entity.
- 12 Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING
- 13 CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and
- 14 "element of offense" have the meanings assigned by Section 1.07,
- 15 Penal Code.
- 16 (b) Except as provided by Subsection (c), a statute or rule
- 17 that creates or defines a criminal offense or penalty shall be
- 18 construed in favor of the actor if any part of the statute or rule is
- 19 ambiguous on its face or as applied to the case, including:
- 20 (1) an element of offense; or
- 21 (2) the penalty to be imposed.
- (c) Subsection (b) does not apply to a criminal offense or
- 23 penalty under the Penal Code or under the Texas Controlled
- 24 Substances Act.
- 25 (d) The ambiguity of a part of a statute or rule to which
- 26 this section applies is a matter of law to be resolved by the judge.
- Sec. 311.036. CONSTRUCTION OF ABORTION STATUTES. (a) A
- 28 statute that regulates or prohibits abortion may not be construed
- 29 to repeal any other statute that regulates or prohibits abortion,
- 30 either wholly or partly, unless the repealing statute explicitly
- 31 states that it is repealing the other statute.
- 32 (b) A statute may not be construed to restrict a political
- 33 subdivision from regulating or prohibiting abortion in a manner
- 34 that is at least as stringent as the laws of this state unless the

- 1 statute explicitly states that political subdivisions are
- 2 prohibited from regulating or prohibiting abortion in the manner
- 3 described by the statute.
- 4 (c) Every statute that regulates or prohibits abortion is 5 severable in each of its applications to every person and
- 6 circumstance. If any statute that regulates or prohibits abortion
- 7 is found by any court to be unconstitutional, either on its face or
- 8 as applied, then all applications of that statute that do not
- 9 violate the United States Constitution and Texas Constitution shall
- 10 be severed from the unconstitutional applications and shall remain
- 11 enforceable, notwithstanding any other law, and the statute shall
- 12 be interpreted as if containing language limiting the statute's
- 13 application to the persons, group of persons, or circumstances for
- 14 which the statute's application will not violate the United States
- 15 Constitution and Texas Constitution.

2 DISPOSITION TABLE

3 CODE OF CRIMINAL PROCEDURE

4	CODE CRIM. PROC.	CODE ARTICLE
5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 31 32 32 32 33 34 34 35 36 36 36 37 37 37 37 37 37 37 37 37 37 37 37 37	Ch. 2 Art. 2.01 (part) Art. 2.01 (part) Art. 2.01 (part) Art. 2.02 Art. 2.021 Art. 2.022 Art. 2.023 Art. 2.024 Art. 2.03(a) Art. 2.04 Art. 2.05 Art. 2.06 Art. 2.06 Art. 2.07 Art. 2.08 Art. 2.09 Art. 2.10 Art. 2.12 Art. 2.12 Art. 2.12 Art. 2.12 Art. 2.124 Art. 2.123 Art. 2.124 Art. 2.125 Art. 2.126 Art. 2.126 Art. 2.127 Art. 2.127 Art. 2.13(a) (b) (c)	2A.102 2A.105 2A.105 2A.108 2A.109 2A.110 2A.110 2A.111 2A.106 2A.107 2A.107 2A.107 2A.107 2A.107 2A.107 2A.105 2A.105 2A.105 2A.105 2A.005 2A.001 2A.005 2A.005 2A.006 2A.006 2A.006 2A.008 2A.008
33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50	(part) (c)	
51 52 53 54 55 56 57 59 61 62 63 64	(b)	2B.0054 2B.0051 2B.0055 2B.0055 2B.0055 2B.0055 2B.0055 2B.0055 2B.0056 2B.0056 2B.0057 2B.0057 2B.0152

$\begin{smallmatrix} 1&2&3&4&5&6&7&8&9&0&1&2&2&2&2&2&2&2&2&2&2&2&2&2&2&2&2&2&2$	Art. Art. Art. Art. Art. Art. Art. Art.	2.1397 2.14 2.15 2.16 2.17 2.18 2.19 2.195 2.20 2.21(a) (a-1) (b) (c) (d) (e) (f) (f) (f-1) (g) (h) (i) (j) (k) 2.211 2.212 2.22 2.23 2.25 2.251 2.27 2.271 2.272 2.273 2.28 2.29 2.295	2B.0251 2A.206 2A.207 2A.208 2B.0154 2A.209 2A.053 2A.053 2A.055 2A.063 2A.064 2A.204 2A.203 2A.153 2A.153 2A.155
54 55	Ch. 3 Art.	3.05	2B.0051
56 57 58 59 60 61 62 63 64 65 66	Art. Art. Art. Art. Art. Art. Art.	13.01	13A.254 13A.302 13A.053 13A.053 13A.051 13A.053 13A.054 13A.204

1 2 3 4 5 6 7 8 9 10 11 2 13 14 15 16 17 18 19 20 21 22 22 24 24 25 26 26 27 27 28 27 28 27 28 27 28 28 28 28 28 28 28 28 28 28 28 28 28			13.10					. 13A.052 . 13A.055 . 13A.151 . 13A.101 . 13A.201 . 13A.202 . 13A.002 . 13A.002 . 13A.001 . 13A.003 . 13A.057 . 13A.501 . 13A.553 . 13A.252 . 13A.257 . 13A.263 . 13A.264 . 13A.259 . 13A.303 . 13A.264 . 13A.259 . 13A.303 . 13A.262 . 13A.304 . 13A.255 . 13A.261 . 13A.551 . 13A.554 . 13A.554 . 13A.554 . 13A.554 . 13A.552 . 13A.265 J 13A.554 . 13A.554 . 13A.554 . 13A.554 . 13A.554
39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54	Ch. 3	Art. Art. Art. Art. Art. Art. Art. Art.	31.01	· · · · · · · · · · · · · · · · · · ·				. 31A.001 . 31A.003 . 31A.004 . 31A.005 . 31A.051 . 31A.053 . 31A.054 . 31A.151 . 31A.152 . 31A.151 . 31A.052
55 56 57 58 59 61 62 63 64 65 66		Art.	45.011 (b) (c) (d) (e) (f) (g) (h) 45.013 45.014 (as		 	 Leg.,	R.S., Ch.	. 45A.004 . 45A.051 . 45A.051 . 45A.051 . 45A.051 . 45A.051 . 45A.052 . 45A.051 . 45A.051

1 2									n Leg						104
3 4		45.015 45.016												45A.	106
5 6									 1 Leg					45A.	107
7	7	4F 017							• • •				RN	45A.	
8 9	Art.	45.017	(a) (b)											45A.	
10 11	Art.	45.018	(a) (b)											45A.	
12	Art.	45.019		-		-								45A.	101
13 14			(b)	•				• •			• •			45A.	
15			(d)	•		•	· · ·							45A.	101
16 17			(e) (f)	•				• •			• •			45A.	
18			(g)	•		•	· • •				• •	• • •		45A.	101
19 20	Art.	45.020	(a) (b)	•		• •	• • •	• •	• • •	• •	• •			45A.	
21		45.020	1.											45A.	260
22 23		45.021 45.021												45A.	
24	Art.	45.021	5.											45A.	452
25 26		45.021 45.021												45A.	
27	Art.	45.021	8.											45A.	
28 29		45.022 45.023												45A.	
30			(b)	•										45A.	
31 32			(c)											45A.	
33 34		45.024 45.024												45A.	
35	Art.	45.024							• • •					45A.	
36 37	Art. Art.	45.026 45.027												45A.	
38	Art.	45.028	•						• • •					45A.	156
39 40	Art. Art.	45.029 45.030												45A.	
41	Art.	45.031							• • •					45A.	158
42 43	Art. Art.	45.032 45.033	•											45A.	
44	Art.	45.034												45A.	164
45 46	Art. Art.	45.035 45.036	•											45A.	
47	Art.	45.037												45A.	201
48 49	Art. Art.	45.038 45.039												45A.	
50	Art.	45.040												45A.	
51 52	Art.	45.041	(a)	1)										45A.	
53 54			(b) (b-	1 \										45A.	
55			(b-	,					• • •					45A.	
56 57			(b- (b-	•										45A.	
58			(b-	,										45A.	253
59 60			(b- (c)	,										45A.	
61			(c-	1)										45A.	251
62 63	Art.	45.042	(d)											45A.	
64		45.042) (pa	art)								•	45A.	202
65 66														45A.	
67	Art.	45.042	6 (a) .										45A.	203
68			(b) •	• • •	•	• • •	• •	• • •	• •	• •	• • •	•	45A.	203

1 2 3 4 5 6 7	Art. Art.	(c)
8 9 10 11 12 13 14 15	Art.	(a-1)(as added Acts 84th Leg., R.S., Ch. 1182) .RN(1) 45A.259 (a-2) .45A.259 (a-3) .45A.259 (a-4) (a-5) (b) 45A.259 (c) 45A.259 45A.259 (c) 45A.259 45A.261 (b)
18 19 20 21 22 23		(c)
24 25 26 27 28 29 30 31 32 33		45.048
35 36 37		45.0491
38	Art.	45.0492(as added Acts 82nd Leg., R.S., Ch. 227)
39 40 41 42 43 44	Art. Art.	45A.460 45.050
45 46 47 48 49 50 51 52 53 54 55 56 57 58 96 61 62 63 64 65 66 67 68	Art.	(b-2) 45A.304 (b-3) 45A.304 (c) 45A.305 (c-1) 45A.306 (c-2) 45A.307 (d) (part) 45A.307 (d-1) 45A.307 (e) 45A.305 (f) 45A.305 (f) 45A.301 (g) 45A.351 (a-1) 45A.351 (b) 45A.352 (c) 45A.356 (c-1) (part) 45A.356 (c-1) (part) 45A.352 (f) 45A.358 (g) 45A.358 (h) 45A.358 (i) 45A.358 (j) 45A.356

35 Art. 45.201(a) 45A.005 36 (b) 45A.005 37 (c) 45A.005 38 (d) 45A.006 39 Art. 45.202 45A.103 40 Art. 45.203 45A.264 41 Ch. 55 42 Art. 55.01(a) (part) 55A.001 43 (a) (part) 55A.002 44 (a) (part) 55A.003 45 (a) (part) 55A.004 46 (a) (part) 55A.005 47 (a) (part) 55A.051 48 (a) (part) 55A.051 49 (a) (part) 55A.053 50 (a) (part) 55A.053 51 (a-1) 55A.054 52 (a-2) 55A.153 54 (a-3) 55A.053 54 (a-4) 55A.053 55 (b) 55A.101 56 (b) 55A.101	1 2 3 4 5 6 7 8 9 10 11 2 13 14 15 16 17 18 19 20 20 20 20 20 30 30 30 30 30 30 30 30 30 30 30 30 30	Art. Art. Art. Art. Art. Art. Art. Art.	(k) (1) (m) (n) (o) (p) (q) (r) (s) (t) 45.052 45.053 45.0531 45.0541 45.056 45.057 45.058(a) (b) (c) (d) (e) (f) (g) (g-1) (h) (h) (i) (j) 45.059 45.060 45.061 45.101 45.102	45A.355 45A.356 45A.357 45A.357 45A.353 45A.354 45A.354 45A.356 45A.401 45A.402 45A.403 45A.403 45A.455 45A.455 45A.56
42 Art. 55.01(a)(part) .55A.001 43 (a)(part) .55A.002 44 (a)(part) .55A.003 45 (a)(part) .55A.004 46 (a)(part) .55A.005 47 (a)(part) .55A.051 48 (a)(part) .55A.052 49 (a)(part) .55A.053 50 (a)(part) .55A.053 51 (a-1) .55A.153 52 (a-2) .55A.154 53 (a-2) .55A.053 54 (a-3) .55A.053 55 .55A.101 56 .55A.101	34 35 36 37 38 39	Art. Art.	45.103	45A.105 45A.005 45A.005 45A.005 45A.006 45A.103
\sim ,	42 43 44 45 46 47 48 49 50 51 52 53 54 55		(a) (part) (a-1) (a-2) (a-3) (a-4) (b)	55A.002 55A.003 55A.004 55A.005 55A.051 55A.052 55A.053 55A.153 55A.153 55A.154 55A.053 55A.053 55A.053 55A.053

1 2 3 4 5 6 7 8 9 10 11 2 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 29 29 29 29 29 29 29 29 29 29 29 29	Art. Art. Art. Art.	Sec	2(cdef aaabcccdd abcddefg)1)) .) (p)) (p) -2)) (p) -2)) (p) -1))													55A.253 55A.256 55A.301 55A.301 55A.351 55A.352 55A.254 55A.351 55A.351 55A.355 55A.356 55A.356 55A.356 55A.356 55A.356 55A.356
30	OCCUPATION	S CODE												C	COI	DΕ	ARTICLE
31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47	Sec. Sec. Sec. Sec. Sec. Sec. Sec. Sec.	1701.652 . 1701.6521 1701.653 . 1701.654 . 1701.655 . 1701.656 . 1701.657 . 1701.659 . 1701.660 . 1701.661 . 1701.662 .			 			· · · · · · · · · · · · · · · · · · ·							• • • • • • • • • • • • • • • • • • • •		2B.0101 2B.0001 2B.0101 2B.0102 2B.0103 2B.0104 2B.0105 2B.0106 2B.0107 2B.0108 2B.0109 2B.0110 2B.0111 2B.0111 2B.0112 2B.0113 2B.0114
48 49	CODE CRIM. Art.	PROC. 45.003			 	•	•	ΓRΑ:	NSP •••	OR •	ΤA •	T]	·	5	02 02	DE 2.4	SECTION 107(b-1)