

PENAL CODE CHAPTER 22. ASSAULTIVE OFFENSES

PENAL CODE

TITLE 5. OFFENSES AGAINST THE PERSON

CHAPTER 22. ASSAULTIVE OFFENSES

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

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

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

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

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

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

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

(3) a person who contracts with government to perform a service in a facility as defined by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

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

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

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

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

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

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

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

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

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

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

(e) In this section:

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

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

1702.221, Occupations Code.

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

(f) For the purposes of Subsection (b)(2):

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

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

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., 1st C.S., p. 55, ch. 2, Sec. 12, 13, eff. July 22, 1977; Acts 1979, 66th Leg., p. 260, ch. 135, Sec. 1, 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 367, ch. 164, Sec. 2, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 5311, ch. 977, Sec. 1, eff. Sept. 1, 1983; Acts 1987, 70th Leg., ch. 1052, Sec. 2.08, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 739, Sec. 1 to 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 284(23) to (26), eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 334, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 366, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 165, Sec. 27.01, eff. Sept. 1, 1997; Acts 1995, 74th Leg., ch. 318, Sec. 5, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 659, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 165, Sec. 27.01, 31.01(68), eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 62, Sec. 15.02(a), eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1158, Sec. 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 294, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1019, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1028, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728, Sec. 16.002, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788, Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788, Sec. 6, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 623, Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 623, Sec. 2, eff. September 1, 2007.

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

(1) intentionally or knowingly:

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

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

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

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

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

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

(D) causes the anus of a child to contact the

mouth, anus, or sexual organ of another person, including the actor; or

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

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

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

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

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

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

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

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

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

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

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

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's

emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

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

(c) In this section:

(1) "Child" means a person younger than 17 years of age who is not the spouse of the actor.

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

(3) "Health care services provider" means:

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

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

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

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

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

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

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

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

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

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

(E) member of the clergy;

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

(G) special officer for mental health assignment certified under Section 1701.404, Occupations Code.

(5) "Employee of a facility" means a person who is an employee of a facility defined by Section 250.001, Health and Safety Code, or any other person who provides services for a facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.

(e) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the actor was not more than three years older than the victim and at the time of the offense:

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

(B) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(2) the victim:

(A) was a child of 14 years of age or older; and

(B) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

Added by Acts 1983, 68th Leg., p. 5312, ch. 977, Sec. 3, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 557, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1029, Sec. 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 662, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 273, Sec. 1, eff. Sept. 1, 1995; Acts 1995,

74th Leg., ch. 318, Sec. 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1031, Sec. 1, 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1286, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1102, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1415, Sec. 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 14.829, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 155, Sec. 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 528, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 553, Sec. 2.017, eff. Feb. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 4.02, eff. September 1, 2005.

Sec. 22.015. COERCING, SOLICITING, OR INDUCING GANG MEMBERSHIP. (a) In this section:

(1) "Child" means an individual younger than 17 years of age.

(2) "Criminal street gang" has the meaning assigned by Section 71.01.

(b) A person commits an offense if, with intent to coerce, induce, or solicit a child to actively participate in the activities of a criminal street gang, the person:

(1) threatens the child with imminent bodily injury; or

(2) causes bodily injury to the child.

(c) An offense under Subsection (b)(1) is a state jail felony. An offense under Subsection (b)(2) is a felony of the third degree.

Added by Acts 1999, 76th Leg., ch. 708, Sec. 1, eff. Sept. 1, 1999.

Sec. 22.02. AGGRAVATED ASSAULT. (a) A person commits an offense if the person commits assault as defined in Sec. 22.01 and the person:

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

(2) uses or exhibits a deadly weapon during the commission of the assault.

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

(1) the actor uses a deadly weapon during the commission of the assault and causes serious bodily injury to a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; or

(2) regardless of whether the offense is committed under Subsection (a)(1) or (a)(2), the offense is committed:

(A) by a public servant acting under color of the servant's office or employment;

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

(C) in retaliation against or on account of the service of another as a witness, prospective witness, informant, or person who has reported the occurrence of a crime; or

(D) against a person the actor knows is a security officer while the officer is performing a duty as a security officer.

(c) The actor is presumed to have known the person assaulted was a public servant or a security officer if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant or status as a security officer.

(d) In this section, "security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a noncommissioned security officer registered under Section 1702.221, Occupations Code.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 367, ch. 164, Sec. 2, eff. Sept. 1, 1979; Acts 1979, 66th Leg., p. 1521, ch. 655, Sec. 2, eff. Sept. 1, 1979; Acts 1983, 68th Leg., p. 349, ch. 79, Sec. 1, eff. Sept. 1, 1983; Acts 1983, 68th Leg., p. 5311, ch. 977, Sec. 2, eff. Sept. 1, 1983; Acts 1985, 69th Leg., ch. 223, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 18, Sec. 3, eff. April 14, 1987; Acts 1987, 70th Leg., ch. 1101, Sec. 12, eff. Sept. 1, 1987; Acts 1989,

71st Leg., ch. 939, Sec. 1 to 3, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 334, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 903, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 1019, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 788, Sec. 3, eff. September 1, 2005.

Sec. 22.021. AGGRAVATED SEXUAL ASSAULT. (a) A person commits an offense:

(1) if the person:

(A) intentionally or knowingly:

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

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

(iii) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(B) intentionally or knowingly:

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

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

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

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

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

(2) if:

(A) the person:

(i) causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode;

(ii) by acts or words places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person;

(iii) by acts or words occurring in the presence of the victim threatens to cause the death, serious bodily injury, or kidnapping of any person;

(iv) uses or exhibits a deadly weapon in the course of the same criminal episode;

(v) acts in concert with another who engages in conduct described by Subdivision (1) directed toward the same victim and occurring during the course of the same criminal episode; or

(vi) administers or provides flunitrazepam, otherwise known as rohypnol, gamma hydroxybutyrate, or ketamine to the victim of the offense with the intent of facilitating the commission of the offense;

(B) the victim is younger than 14 years of age; or

(C) the victim is an elderly individual or a disabled individual.

(b) In this section:

(1) "Child" has the meaning assigned by Section 22.011(c).

(2) "Elderly individual" and "disabled individual" have the meanings assigned by Section 22.04(c).

(c) An aggravated sexual assault under this section is without the consent of the other person if the aggravated sexual assault occurs under the same circumstances listed in Section 22.011(b).

(d) The defense provided by Section 22.011(d) applies to this section.

(e) An offense under this section is a felony of the first degree.

(f) The minimum term of imprisonment for an offense under this section is increased to 25 years if:

(1) the victim of the offense is younger than six years of age at the time the offense is committed; or

(2) the victim of the offense is younger than 14 years of age at the time the offense is committed and the actor commits the offense in a manner described by Subsection (a)(2)(A).

Added by Acts 1983, 68th Leg., p. 5312, ch. 977, Sec. 3, eff. Sept. 1, 1983. Amended by Acts 1987, 70th Leg., ch. 573, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 16, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1286, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 417, Sec. 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 459, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 528, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 896, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593, Sec. 1.18, eff. September 1, 2007.

Sec. 22.04. INJURY TO A CHILD, ELDERLY INDIVIDUAL, OR DISABLED INDIVIDUAL. (a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, causes to a child, elderly individual, or disabled individual:

(1) serious bodily injury;

(2) serious mental deficiency, impairment, or injury;

or

(3) bodily injury.

(a-1) A person commits an offense if the person is an owner, operator, or employee of a group home, nursing facility, assisted living facility, intermediate care facility for persons with mental retardation, or other institutional care facility and the person intentionally, knowingly, recklessly, or with criminal negligence by omission causes to a child, elderly individual, or disabled individual who is a resident of that group home or facility:

- (1) serious bodily injury;
- (2) serious mental deficiency, impairment, or injury;
- (3) bodily injury; or
- (4) exploitation.

(b) An omission that causes a condition described by Subsection (a)(1), (2), or (3) or (a-1)(1), (2), (3), or (4) is conduct constituting an offense under this section if:

- (1) the actor has a legal or statutory duty to act; or
- (2) the actor has assumed care, custody, or control of a child, elderly individual, or disabled individual.

(c) In this section:

- (1) "Child" means a person 14 years of age or younger.
- (2) "Elderly individual" means a person 65 years of age or older.

(3) "Disabled individual" means a person older than 14 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect himself from harm or to provide food, shelter, or medical care for himself.

(4) "Exploitation" means the illegal or improper use of an individual or of the resources of the individual for monetary or personal benefit, profit, or gain.

(d) For purposes of an omission that causes a condition described by Subsection (a)(1), (2), or (3), the actor has assumed care, custody, or control if he has by act, words, or course of conduct acted so as to cause a reasonable person to conclude that he has accepted responsibility for protection, food, shelter, and medical care for a child, elderly individual, or disabled individual. For purposes of an omission that causes a condition described by Subsection (a-1)(1), (2), (3), or (4), the actor acting during the actor's capacity as owner, operator, or employee of a group home or facility described by Subsection (a-1) is considered to have accepted responsibility for protection, food, shelter, and medical care for the child, elderly individual, or disabled individual who is a resident of the group home or facility.

(e) An offense under Subsection (a)(1) or (2) or (a-1)(1) or (2) is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in

recklessly, the offense is a felony of the second degree.

(f) An offense under Subsection (a)(3) or (a-1)(3) or (4) is a felony of the third degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly, the offense is a state jail felony.

(g) An offense under Subsection (a) is a state jail felony when the person acts with criminal negligence. An offense under Subsection (a-1) is a state jail felony when the person, with criminal negligence and by omission, causes a condition described by Subsection (a-1)(1), (2), (3), or (4).

(h) A person who is subject to prosecution under both this section and another section of this code may be prosecuted under either or both sections. Section 3.04 does not apply to criminal episodes prosecuted under both this section and another section of this code. If a criminal episode is prosecuted under both this section and another section of this code and sentences are assessed for convictions under both sections, the sentences shall run concurrently.

(i) It is an affirmative defense to prosecution under Subsection (b)(2) that before the offense the actor:

(1) notified in person the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); and

(2) notified in writing the parents or person other than himself acting in loco parentis to the child, elderly individual, or disabled individual that he would no longer provide any of the care described by Subsection (d); or

(3) notified in writing the Department of Protective and Regulatory Services that he would no longer provide any of the care set forth in Subsection (d).

(j) Written notification under Subsection (i)(2) or (i)(3) is not effective unless it contains the name and address of the actor, the name and address of the child, elderly individual, or disabled individual, the type of care provided by the actor, and the date the care was discontinued.

(k) It is a defense to prosecution under this section that the act or omission consisted of:

(1) reasonable medical care occurring under the direction of or by a licensed physician; or

(2) emergency medical care administered in good faith and with reasonable care by a person not licensed in the healing arts.

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

(1) that the act or omission was based on treatment in accordance with the tenets and practices of a recognized religious method of healing with a generally accepted record of efficacy;

(2) for a person charged with an act of omission causing to a child, elderly individual, or disabled individual a condition described by Subsection (a)(1), (2), or (3) that:

(A) there is no evidence that, on the date prior to the offense charged, the defendant was aware of an incident of injury to the child, elderly individual, or disabled individual and failed to report the incident; and

(B) the person:

(i) was a victim of family violence, as that term is defined by Section 71.004, Family Code, committed by a person who is also charged with an offense against the child, elderly individual, or disabled individual under this section or any other section of this title;

(ii) did not cause a condition described by Subsection (a)(1), (2), or (3); and

(iii) did not reasonably believe at the time of the omission that an effort to prevent the person also charged with an offense against the child, elderly individual, or disabled individual from committing the offense would have an effect; or

(3) that:

(A) the actor was not more than three years older than the victim at the time of the offense; and

(B) the victim was a child at the time of the offense.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.  
Amended by Acts 1977, 65th Leg., p. 2067, ch. 819, Sec. 1, eff. Aug.

29, 1977; Acts 1979, 66th Leg., p. 365, ch. 162, Sec. 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 472, ch. 202, Sec. 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2397, ch. 604, Sec. 1, eff. Sept. 1, 1981; Acts 1989, 71st Leg., ch. 357, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 497, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 8.139, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 15.02(b), eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 1.125(a), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 949, Sec. 46, eff. September 1, 2005.

Sec. 22.041. ABANDONING OR ENDANGERING CHILD. (a) In this section, "abandon" means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.

(b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.

(c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.

(c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

(1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;

(2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or

other bodily substance indicates the presence of methamphetamine in the child's body; or

(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

Added by Acts 1985, 69th Leg., ch. 791, Sec. 1, eff. Sept. 1, 1985.

Amended by Acts 1989, 71st Leg., ch. 904, Sec. 1, eff. Sept. 1, 1989;

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

Acts 1997, 75th Leg., ch. 687, Sec. 1, eff. Sept. 1, 1997; Acts

1999, 76th Leg., ch. 1087, Sec. 3, eff. Sept. 1, 1999; Acts 2001,

77th Leg., ch. 809, Sec. 7, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 282, Sec. 10, eff. August 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 840, Sec. 2, eff. September 1, 2007.

Sec. 22.05. DEADLY CONDUCT. (a) A person commits an offense if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.

(b) A person commits an offense if he knowingly discharges a firearm at or in the direction of:

(1) one or more individuals; or

(2) a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.

(c) Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

(d) For purposes of this section, "building," "habitation," and "vehicle" have the meanings assigned those terms by Section 30.01.

(e) An offense under Subsection (a) is a Class A misdemeanor. An offense under Subsection (b) is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 22.06. CONSENT AS DEFENSE TO ASSAULTIVE CONDUCT.

(a) The victim's effective consent or the actor's reasonable belief that the victim consented to the actor's conduct is a defense to prosecution under Section 22.01 (Assault), 22.02 (Aggravated Assault), or 22.05 (Deadly Conduct) if:

(1) the conduct did not threaten or inflict serious bodily injury; or

(2) the victim knew the conduct was a risk of:

(A) his occupation;

(B) recognized medical treatment; or

(C) a scientific experiment conducted by recognized methods.

(b) The defense to prosecution provided by Subsection (a) is not available to a defendant who commits an offense described by Subsection (a) as a condition of the defendant's or the victim's initiation or continued membership in a criminal street gang, as

defined by Section 71.01.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 273, Sec. 1, eff. September 1, 2007.

Sec. 22.07. TERRORISTIC THREAT. (a) A person commits an offense if he threatens to commit any offense involving violence to any person or property with intent to:

(1) cause a reaction of any type to his threat by an official or volunteer agency organized to deal with emergencies;

(2) place any person in fear of imminent serious bodily injury;

(3) prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place;

(4) cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;

(5) place the public or a substantial group of the public in fear of serious bodily injury; or

(6) influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

(b) An offense under Subsection (a)(1) is a Class B misdemeanor.

(c) An offense under Subsection (a)(2) is a Class B misdemeanor, except that the offense is a Class A misdemeanor if the offense:

(1) is committed against a member of the person's family or household or otherwise constitutes family violence; or

(2) is committed against a public servant.

(d) An offense under Subsection (a)(3) is a Class A misdemeanor, unless the actor causes pecuniary loss of \$1,500 or

more to the owner of the building, room, place, or conveyance, in which event the offense is a state jail felony.

(e) An offense under Subsection (a)(4), (a)(5), or (a)(6) is a felony of the third degree.

(f) In this section:

(1) "Family" has the meaning assigned by Section 71.003, Family Code.

(2) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(3) "Household" has the meaning assigned by Section 71.005, Family Code.

(g) For purposes of Subsection (d), the amount of pecuniary loss is the amount of economic loss suffered by the owner of the building, room, place, or conveyance as a result of the prevention or interruption of the occupation or use of the building, room, place, or conveyance.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.

Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, Sec. 2, eff. Aug.

27, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,

1994; Acts 2003, 78th Leg., ch. 139, Sec. 1, eff. Sept. 1, 2003;

Acts 2003, 78th Leg., ch. 388, Sec. 2, eff. Sept. 1, 2003; Acts

2003, 78th Leg., ch. 446, Sec. 1, eff. Sept. 1, 2003.

Reenacted and amended by Acts 2005, 79th Leg., Ch. 728, Sec. 16.003,

eff. September 1, 2005.

Sec. 22.08. AIDING SUICIDE. (a) A person commits an offense if, with intent to promote or assist the commission of suicide by another, he aids or attempts to aid the other to commit or attempt to commit suicide.

(b) An offense under this section is a Class C misdemeanor unless the actor's conduct causes suicide or attempted suicide that results in serious bodily injury, in which event the offense is a state jail felony.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.

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

1994.

Sec. 22.09. TAMPERING WITH CONSUMER PRODUCT. (a) In this section:

(1) "Consumer Product" means any product offered for sale to or for consumption by the public and includes "food" and "drugs" as those terms are defined in Section 431.002, Health and Safety Code.

(2) "Tamper" means to alter or add a foreign substance to a consumer product to make it probable that the consumer product will cause serious bodily injury.

(b) A person commits an offense if he knowingly or intentionally tampers with a consumer product knowing that the consumer product will be offered for sale to the public or as a gift to another.

(c) A person commits an offense if he knowingly or intentionally threatens to tamper with a consumer product with the intent to cause fear, to affect the sale of the consumer product, or to cause bodily injury to any person.

(d) An offense under Subsection (b) is a felony of the second degree unless a person suffers serious bodily injury, in which event it is a felony of the first degree. An offense under Subsection (c) is a felony of the third degree.

Added by Acts 1983, 68th Leg., p. 2812, ch. 481, Sec. 1, eff. Sept. 1, 1983. Amended by Acts 1989, 71st Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 14, Sec. 284(32), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 22.10. LEAVING A CHILD IN A VEHICLE. (a) A person commits an offense if he intentionally or knowingly leaves a child in a motor vehicle for longer than five minutes, knowing that the child is:

(1) younger than seven years of age; and

(2) not attended by an individual in the vehicle who is 14 years of age or older.

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

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 24, Sec. 1, eff. Oct. 2, 1984. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff.

Sept. 1, 1994.

Sec. 22.11. HARASSMENT BY PERSONS IN CERTAIN CORRECTIONAL FACILITIES; HARASSMENT OF PUBLIC SERVANT. (a) A person commits an offense if, with the intent to assault, harass, or alarm, the person:

(1) while imprisoned or confined in a correctional or detention facility, causes another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal; or

(2) causes another person the actor knows to be a public servant to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.

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

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

(d) In this section, "correctional or detention facility" means:

(1) a secure correctional facility; or

(2) a "secure correctional facility" or a "secure detention facility" as defined by Section 51.02, Family Code, operated by or under contract with a juvenile board or the Texas Youth Commission or any other facility operated by or under contract with that commission.

(e) For purposes of Subsection (a)(2), the actor is presumed to have known the person was a public servant if the person was wearing a distinctive uniform or badge indicating the person's employment as a public servant.

Added by Acts 1999, 76th Leg., ch. 335, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 878, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1006, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 543, Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 543, Sec. 2, eff. September 1, 2005.

Sec. 22.12. APPLICABILITY TO CERTAIN CONDUCT. This chapter does not apply to conduct charged as having been committed against an individual who is an unborn child if the conduct is:

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

(2) a lawful medical procedure performed by a physician or other health care provider with the requisite consent;

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

(4) the dispensation of a drug in accordance with law or administration of a drug prescribed in accordance with law.

Added by Acts 2003, 78th Leg., ch. 822, Sec. 2.04, eff. Sept. 1, 2003.