

PENAL CODE

TITLE 6. OFFENSES AGAINST THE FAMILY

CHAPTER 25. OFFENSES AGAINST THE FAMILY

Sec. 25.01. BIGAMY. (a) An individual commits an offense if:

(1) he is legally married and he:

(A) purports to marry or does marry a person other than his spouse in this state, or any other state or foreign country, under circumstances that would, but for the actor's prior marriage, constitute a marriage; or

(B) lives with a person other than his spouse in this state under the appearance of being married; or

(2) he knows that a married person other than his spouse is married and he:

(A) purports to marry or does marry that person in this state, or any other state or foreign country, under circumstances that would, but for the person's prior marriage, constitute a marriage; or

(B) lives with that person in this state under the appearance of being married.

(b) For purposes of this section, "under the appearance of being married" means holding out that the parties are married with cohabitation and an intent to be married by either party.

(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior marriage was void or had been dissolved by death, divorce, or annulment. For purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court.

(d) For the purposes of this section, the lawful wife or husband of the actor may testify both for or against the actor

concerning proof of the original marriage.

(e) An offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is:

(1) 16 years of age or older, the offense is a felony of the second degree; or

(2) younger than 16 years of age, the offense is a felony of the first 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.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 4.03, eff. September 1, 2005.

Sec. 25.02. PROHIBITED SEXUAL CONDUCT. (a) A person commits an offense if the person engages in sexual intercourse or deviate sexual intercourse with another person the actor knows to be, without regard to legitimacy:

(1) the actor's ancestor or descendant by blood or adoption;

(2) the actor's current or former stepchild or stepparent;

(3) the actor's parent's brother or sister of the whole or half blood;

(4) the actor's brother or sister of the whole or half blood or by adoption;

(5) the children of the actor's brother or sister of the whole or half blood or by adoption; or

(6) the son or daughter of the actor's aunt or uncle of the whole or half blood or by adoption.

(b) For purposes of this section:

(1) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person with intent to arouse or gratify the sexual desire of any person.

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

(c) An offense under this section is a felony of the third degree, unless the offense is committed under Subsection (a)(6), in which event the offense is a felony of the second 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.

Amended by:

Acts 2005, 79th Leg., Ch. 268, Sec. 4.04, eff. September 1, 2005.

Sec. 25.03. INTERFERENCE WITH CHILD CUSTODY. (a) A person commits an offense if the person takes or retains a child younger than 18 years when the person:

(1) knows that the person's taking or retention violates the express terms of a judgment or order, including a temporary order, of a court disposing of the child's custody; or

(2) has not been awarded custody of the child by a court of competent jurisdiction, knows that a suit for divorce or a civil suit or application for habeas corpus to dispose of the child's custody has been filed, and takes the child out of the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, without the permission of the court and with the intent to deprive the court of authority over the child.

(b) A noncustodial parent commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, the noncustodial parent knowingly entices or persuades the child to leave the custody of the custodial parent, guardian, or person standing in the stead of the custodial parent or guardian of the child.

(c) It is a defense to prosecution under Subsection (a)(2) that the actor returned the child to the geographic area of the counties composing the judicial district if the court is a district court or the county if the court is a statutory county court, within three days after the date of the commission of the offense.

(d) An offense under this section is a state jail felony. Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1111, ch. 527, Sec. 1, eff. Aug. 27, 1979; Acts 1987, 70th Leg., ch. 444, Sec. 1, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 830, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 332, Sec. 1, eff. May 24, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 272, Sec. 1, eff. September 1, 2007.

Sec. 25.031. AGREEMENT TO ABDUCT FROM CUSTODY. (a) A person commits an offense if the person agrees, for remuneration or the promise of remuneration, to abduct a child younger than 18 years of age by force, threat of force, misrepresentation, stealth, or unlawful entry, knowing that the child is under the care and control of a person having custody or physical possession of the child under a court order, including a temporary order, or under the care and control of another person who is exercising care and control with the consent of a person having custody or physical possession under a court order, including a temporary order.

(b) An offense under this section is a state jail felony. Added by Acts 1987, 70th Leg., ch. 444, Sec. 3, eff. Sept. 1, 1987. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 272, Sec. 2, eff. September 1, 2007.

Sec. 25.04. ENTICING A CHILD. (a) A person commits an offense if, with the intent to interfere with the lawful custody of a child younger than 18 years, he knowingly entices, persuades, or takes the child from the custody of the parent or guardian or person standing in the stead of the parent or guardian of such child.

(b) An offense under this section is a Class B misdemeanor, unless it is shown on the trial of the offense that the actor intended to commit a felony against the child, in which event an

offense under this section is a felony of the third degree.
Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1,
1994; Acts 1999, 76th Leg., ch. 685, Sec. 7, eff. Sept. 1, 1999.

Sec. 25.05. CRIMINAL NONSUPPORT. (a) An individual commits an offense if the individual intentionally or knowingly fails to provide support for the individual's child younger than 18 years of age, or for the individual's child who is the subject of a court order requiring the individual to support the child.

(b) For purposes of this section, "child" includes a child born out of wedlock whose paternity has either been acknowledged by the actor or has been established in a civil suit under the Family Code or the law of another state.

(c) Under this section, a conviction may be had on the uncorroborated testimony of a party to the offense.

(d) It is an affirmative defense to prosecution under this section that the actor could not provide support for the actor's child.

(e) The pendency of a prosecution under this section does not affect the power of a court to enter an order for child support under the Family Code.

(f) An offense under this section is a state jail felony.
Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 73, Sec. 13, eff.
Nov. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept.
1, 1994; Acts 2001, 77th Leg., ch. 375, Sec. 1, eff. May 25, 2001.

Sec. 25.06. HARBORING RUNAWAY CHILD. (a) A person commits an offense if he knowingly harbors a child and he is criminally negligent about whether the child:

- (1) is younger than 18 years; and
- (2) has escaped from the custody of a peace officer, a probation officer, the Texas Youth Council, or a detention facility for children, or is voluntarily absent from the child's home without the consent of the child's parent or guardian for a substantial length of time or without the intent to return.

(b) It is a defense to prosecution under this section that the actor was related to the child within the second degree by consanguinity or affinity, as determined under Chapter 573, Government Code.

(c) It is a defense to prosecution under this section that the actor notified:

(1) the person or agency from which the child escaped or a law enforcement agency of the presence of the child within 24 hours after discovering that the child had escaped from custody; or

(2) a law enforcement agency or a person at the child's home of the presence of the child within 24 hours after discovering that the child was voluntarily absent from home without the consent of the child's parent or guardian.

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

(e) On the receipt of a report from a peace officer, probation officer, the Texas Youth Council, a foster home, or a detention facility for children that a child has escaped its custody or upon receipt of a report from a parent, guardian, conservator, or legal custodian that a child is missing, a law enforcement agency shall immediately enter a record of the child into the National Crime Information Center.

Added by Acts 1979, 66th Leg., p. 1155, ch. 558, Sec. 1, eff. Sept. 1, 1979. Amended by Acts 1983, 68th Leg., p. 4750, ch. 831, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 561, Sec. 40, eff. Aug. 26, 1991. Renumbered from Sec. 25.07 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995.

Text of section effective until approval by the voters of H.J.R. 6,
80th Leg., R.S.

Sec. 25.07. VIOLATION OF PROTECTIVE ORDER OR MAGISTRATE'S ORDER.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 66,
Sec. 2

(a) A person commits an offense if, in violation of an order

issued under Section 6.504 or Chapter 85, Family Code, under Article 17.292, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order normally resides or attends; or

(4) possesses a firearm.

(b) For the purposes of this section:

(1) "Family violence," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2) "Firearm" has the meaning assigned by Chapter 46.

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

(d) Reconciliatory actions or agreements made by persons affected by an order do not affect the validity of the order or the duty of a peace officer to enforce this section.

(e) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.

(f) It is not a defense to prosecution under this section that certain information has been excluded, as provided by Section 85.007, Family Code, or Article 17.292, Code of Criminal Procedure, from an order to which this section applies.

Text of subsection effective until approval by the voters of H.J.R.
6, 80th Leg., R.S.

(g) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

Added by Acts 1983, 68th Leg., p. 4049, ch. 631, Sec. 3, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 583, Sec. 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 170, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 677, Sec. 8, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 614, Sec. 23 to 26, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 739, Sec. 4 to 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 366, Sec. 2, eff. Sept. 1, 1991. Renumbered from Sec. 25.08 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 658, Sec. 2, 3, eff. June 14, 1995; Acts 1995, 74th Leg., ch. 660, Sec. 1, 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1024, Sec. 23, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1, Sec. 2, eff. Jan. 28, 1997; Acts 1997, 75th Leg., ch. 1193, Sec. 21, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 15.02(c), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 23, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 134, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 66, Sec. 2, eff. May 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1113, Sec. 1, eff. January 1,

2008.

Text of section effective on approval by the voters of H.J.R. 6,
80th Leg., R.S.

Sec. 25.07. VIOLATION OF CERTAIN COURT ORDERS OR CONDITIONS
OF BOND IN A FAMILY VIOLENCE CASE.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 66,
Sec. 2

(a) A person commits an offense if, in violation of an order issued under Section 6.504 or Chapter 85, Family Code, under Article 17.292, Code of Criminal Procedure, or by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 22.011, 22.021, or 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order normally resides or attends; or

(4) possesses a firearm.

Text of subsection effective on approval by the voters of H.J.R. 6,
80th Leg., R.S.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch.
1113, Sec. 2

(a) A person commits an offense if, in violation of a condition of bond set in a family violence case and related to the safety of the victim or the safety of the community, an order issued under Article 17.292, Code of Criminal Procedure, an order issued under Section 6.504, Family Code, Chapter 83, Family Code, if the temporary ex parte order has been served on the person, or Chapter 85, Family Code, or an order issued by another jurisdiction as provided by Chapter 88, Family Code, the person knowingly or intentionally:

(1) commits family violence or an act in furtherance of an offense under Section 42.072;

(2) communicates:

(A) directly with a protected individual or a member of the family or household in a threatening or harassing manner;

(B) a threat through any person to a protected individual or a member of the family or household; or

(C) in any manner with the protected individual or a member of the family or household except through the person's attorney or a person appointed by the court, if the violation is of an order described by this subsection and the order prohibits any communication with a protected individual or a member of the family or household;

(3) goes to or near any of the following places as specifically described in the order or condition of bond:

(A) the residence or place of employment or business of a protected individual or a member of the family or household; or

(B) any child care facility, residence, or school where a child protected by the order or condition of bond normally resides or attends; or

(4) possesses a firearm.

(b) For the purposes of this section:

(1) "Family violence," "family," "household," and "member of a household" have the meanings assigned by Chapter 71, Family Code.

(2) "Firearm" has the meaning assigned by Chapter 46.

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

(d) Reconciliatory actions or agreements made by persons affected by an order do not affect the validity of the order or the duty of a peace officer to enforce this section.

(e) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.

(f) It is not a defense to prosecution under this section that certain information has been excluded, as provided by Section 85.007, Family Code, or Article 17.292, Code of Criminal Procedure, from an order to which this section applies.

(g) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the order or condition of bond by committing an assault or the offense of stalking, in which event the offense is a third degree felony.

Added by Acts 1983, 68th Leg., p. 4049, ch. 631, Sec. 3, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 583, Sec. 3, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 170, Sec. 1, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 677, Sec. 8, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 614, Sec. 23 to 26, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 739, Sec. 4 to 7, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 366, Sec. 2, eff. Sept. 1, 1991. Renumbered from Sec. 25.08 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 658, Sec. 2, 3, eff. June 14, 1995; Acts 1995, 74th Leg., ch. 660, Sec. 1, 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 1024, Sec. 23,

eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1, Sec. 2, eff. Jan. 28, 1997; Acts 1997, 75th Leg., ch. 1193, Sec. 21, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 15.02(c), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 23, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 134, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 66, Sec. 2, eff. May 11, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1113, Sec. 1, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 1113, Sec. 2, eff. January 1, 2008.

Sec. 25.071. VIOLATION OF PROTECTIVE ORDER PREVENTING OFFENSE CAUSED BY BIAS OR PREJUDICE. (a) A person commits an offense if, in violation of an order issued under Article 6.08, Code of Criminal Procedure, the person knowingly or intentionally:

(1) commits an offense under Title 5 or Section 28.02, 28.03, or 28.08 and commits the offense because of bias or prejudice as described by Article 42.014, Code of Criminal Procedure;

(2) communicates:

(A) directly with a protected individual in a threatening or harassing manner;

(B) a threat through any person to a protected individual; or

(C) in any manner with the protected individual, if the order prohibits any communication with a protected individual; or

(3) goes to or near the residence or place of employment or business of a protected individual.

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

(c) A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order.

(d) An offense under this section is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has previously been convicted under this section two or more times or has violated the protective order by committing an assault, in which event the offense is a third degree felony.

Added by Acts 2001, 77th Leg., ch. 85, Sec. 3.02, eff. Sept. 1, 2001.

Sec. 25.08. SALE OR PURCHASE OF CHILD. (a) A person commits an offense if he:

(1) possesses a child younger than 18 years of age or has the custody, conservatorship, or guardianship of a child younger than 18 years of age, whether or not he has actual possession of the child, and he offers to accept, agrees to accept, or accepts a thing of value for the delivery of the child to another or for the possession of the child by another for purposes of adoption; or

(2) offers to give, agrees to give, or gives a thing of value to another for acquiring or maintaining the possession of a child for the purpose of adoption.

(b) It is an exception to the application of this section that the thing of value is:

(1) a fee or reimbursement paid to a child-placing agency as authorized by law;

(2) a fee paid to an attorney, social worker, mental health professional, or physician for services rendered in the usual course of legal or medical practice or in providing adoption counseling;

(3) a reimbursement of legal or medical expenses incurred by a person for the benefit of the child; or

(4) a necessary pregnancy-related expense paid by a child-placing agency for the benefit of the child's parent during the pregnancy or after the birth of the child as permitted by the minimum standards for child-placing agencies and Department of Protective and Regulatory Services rules.

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if

the actor commits the offense with intent to commit an offense under Section 43.25.

Added by Acts 1977, 65th Leg., p. 81, ch. 38, Sec. 1, eff. March 30, 1977. Amended by Acts 1981, 67th Leg., p. 2211, ch. 514, Sec. 1, eff. Sept. 1, 1981. Renumbered from Sec. 25.06 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(44). Renumbered from Sec. 25.11 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 2001, 77th Leg., ch. 134, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1005, Sec. 3, eff. Sept. 1, 2003.

Sec. 25.09. ADVERTISING FOR PLACEMENT OF CHILD. (a) A person commits an offense if the person advertises in the public media that the person will place a child for adoption or will provide or obtain a child for adoption.

(b) This section does not apply to a licensed child-placing agency that is identified in the advertisement as a licensed child-placing agency.

(c) An offense under this section is a Class A misdemeanor unless the person has been convicted previously under this section, in which event the offense is a felony of the third degree.

(d) In this section:

(1) "Child" has the meaning assigned by Section 101.003, Family Code.

(2) "Public media" has the meaning assigned by Section 38.01. The term also includes communications through the use of the Internet or another public computer network.

Added by Acts 1997, 75th Leg., ch. 561, Sec. 31, eff. Sept. 1, 1997.

Sec. 25.10. INTERFERENCE WITH RIGHTS OF GUARDIAN OF THE PERSON. (a) In this section:

(1) "Possessory right" means the right of a guardian of the person to have physical possession of a ward and to establish the ward's legal domicile, as provided by Section 767(1), Texas Probate Code.

(2) "Ward" has the meaning assigned by Section 601, Texas Probate Code.

(b) A person commits an offense if the person takes,

retains, or conceals a ward when the person knows that the person's taking, retention, or concealment interferes with a possessory right with respect to the ward.

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

(d) This section does not apply to a governmental entity where the taking, retention, or concealment of the ward was authorized by Subtitle E, Title 5, Family Code, or Chapter 48, Human Resources Code.

Added by Acts 2003, 78th Leg., ch. 549, Sec. 32, eff. Sept. 1, 2003.