

[TEXAS] **PENAL CODE**

TITLE 1. INTRODUCTORY PROVISIONS
CHAPTER 1. GENERAL PROVISIONS

Sec. 1.01. SHORT TITLE. This code shall be known and may be cited as the Penal Code.

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

- (1) to insure the public safety through:
 - (A) the deterrent influence of the penalties hereinafter provided;
 - (B) the rehabilitation of those convicted of violations of this code; and
 - (C) such punishment as may be necessary to prevent likely recurrence of criminal behavior;
- (2) by definition and grading of offenses to give fair warning of what is prohibited and of the consequences of violation;
- (3) to prescribe penalties that are proportionate to the seriousness of offenses and that permit recognition of differences in rehabilitation possibilities among individual offenders;
- (4) to safeguard conduct that is without guilt from condemnation as criminal;
- (5) to guide and limit the exercise of official discretion in law enforcement to prevent arbitrary or oppressive treatment of persons suspected, accused, or convicted of offenses; and
- (6) to define the scope of state interest in law enforcement against specific offenses and to systematize the exercise of state criminal jurisdiction.

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

(b) The provisions of Titles 1, 2, and 3 apply to offenses defined by other laws, unless the statute defining the offense provides otherwise; however, the punishment affixed to an

offense defined outside this code shall be applicable unless the punishment is classified in accordance with this code.

(c) This code does not bar, suspend, or otherwise affect a right or liability to damages, penalty, forfeiture, or other remedy authorized by law to be recovered or enforced in a civil suit for conduct this code defines as an offense, and the civil injury is not merged in the offense.

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

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

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

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

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

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

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

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

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

(b) Unless a different construction is required by the

context, Sections 311.011, 311.012, 311.014, 311.015, and 311.021 through 311.032 of Chapter 311, Government Code (Code Construction Act), apply to the construction of this code.

(c) In this code:

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

(2) a reference to a subchapter, subsection, subdivision, paragraph, or other numbered or lettered unit without further identification is a reference to a unit of the next-larger unit of this code in which the reference appears.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 69, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 1.06. COMPUTATION OF AGE. A person attains a specified age on the day of the anniversary of his **birthdate**. 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. 1.07. DEFINITIONS. (a) In this code:

(1) "Act" means a bodily movement, whether voluntary or involuntary, and includes speech.

(2) "Actor" means a person whose criminal responsibility is in issue in a criminal action. Whenever the term "suspect" is used in this code, it means "actor."

(3) "Agency" includes authority, board, bureau, commission, committee, council, department, district, division, and office.

(4) "Alcoholic beverage" has the meaning assigned by Section 1.04, Alcoholic Beverage Code.

(5) "Another" means a person other than the actor.

(6) "Association" means a government or governmental subdivision or agency, trust, partnership, or two or more persons having a joint or common economic interest.

(7) "Benefit" means anything reasonably regarded as economic gain or advantage, including benefit to any other person in whose welfare the beneficiary is interested.

(8) "Bodily injury" means physical pain, illness, or any impairment of physical condition.

(9) "Coercion" means a threat, however communicated:

(A) to commit an offense;

(B) to inflict bodily injury in the future on the person threatened or another;

(C) to accuse a person of any offense;

(D) to expose a person to hatred, contempt, or ridicule;

(E) to harm the credit or business repute of any person; or

(F) to take or withhold action as a public

servant, or to cause a public servant to take or withhold action.

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

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

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

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

(14) "Correctional facility" means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:

(A) a municipal or county jail;

(B) a confinement facility operated by the Texas Department of Criminal Justice;

(C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and

(D) a community corrections facility operated by a community supervision and corrections department.

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

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

(17) "Deadly weapon" means:

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

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

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

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

(A) induced by force, threat, or fraud;

(B) given by a person the actor knows is not legally authorized to act for the owner;

(C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or

(D) given solely to detect the commission of an offense.

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

(21) "Electric utility substation" means a facility used to switch or change voltage in connection with the

transmission of electric energy for distribution to the public.

(22) "Element of offense" means:

- (A) the forbidden conduct;
- (B) the required culpability;
- (C) any required result; and
- (D) the negation of any exception to the offense.

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

(24) "Government" means:

- (A) **the state**;
- (B) a county, municipality, or political subdivision of **the state**; or
- (C) any branch or agency of **the state**, a county, municipality, or political subdivision.

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

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

(27) "Institutional division" means the institutional division of the Texas Department of Criminal Justice.

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

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

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

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

(32) "Oath" includes affirmation.

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

(34) "Omission" means failure to act.

(35) "Owner" means a person who:

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

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

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

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

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

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

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

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

(A) an officer, employee, or agent of government;

(B) a juror or grand juror; or

(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy; or

(D) an attorney at law or notary public when participating in the performance of a governmental function; or

(E) a candidate for nomination or election to public office; or

(F) a person who is performing a governmental function under a claim of right although he is not legally qualified to do so.

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

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

(44) "Rule" includes regulation.

(45) "Secure correctional facility" means:

(A) a municipal or county jail; or

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

(46) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(47) "Swear" includes affirm.

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

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

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

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 912, ch. 342, Sec. 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 2123, ch. 848, Sec. 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1113, ch. 530, Sec. 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1520, ch. 655, Sec. 1, eff. Sept. 1, 1979; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(43), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 997, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 543, Sec. 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 822, Sec. 2.01, eff. Sept. 1, 2003.

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

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.

Ed. Note: Presentation is not complete and may not be timely. Annotation is for informational purposes only. Reader is advised to seek competent legal advice as needed. Publication does not indicate endorsement.