

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 14. ARREST WITHOUT WARRANT

Art. 14.01. OFFENSE WITHIN VIEW. (a) A peace officer or any other person, may, without a warrant, arrest an offender when the offense is committed in his presence or within his view, if the offense is one classed as a felony or as an offense against the public peace.

(b) A peace officer may arrest an offender without a warrant for any offense committed in his presence or within his view.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, Sec. 8, eff. Aug. 28, 1967.

Art. 14.02. WITHIN VIEW OF MAGISTRATE. A peace officer may arrest, without warrant, when a felony or breach of the peace has been committed in the presence or within the view of a magistrate, and such magistrate verbally orders the arrest of the offender.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 14.03. AUTHORITY OF PEACE OFFICERS. (a) Any peace officer may arrest, without warrant:

(1) persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony, violation of Title 9, Chapter 42, Penal Code, breach of the peace, or offense under Section 49.02, Penal Code, or threaten, or are about to commit some offense against the laws;

(2) persons who the peace officer has probable cause to believe have committed an assault resulting in bodily injury to another person and the peace officer has probable cause to believe that there is danger of further bodily injury to that person;

(3) persons who the peace officer has probable cause to believe have committed an offense defined by Section 25.07, Penal Code, if the offense is not committed in the presence of the peace officer;

(4) persons who the peace officer has probable cause to believe have committed an offense involving family violence;

(5) persons who the peace officer has probable cause to believe have prevented or interfered with an individual's ability to place a telephone call in an emergency, as defined by Section 42.062(d), Penal Code, if the offense is not committed in the presence of the peace officer; or

(6) a person who makes a statement to the peace officer that would be admissible against the person under Article 38.21 and establishes probable cause to believe that the person has committed a felony.

(b) A peace officer shall arrest, without a warrant, a person the peace officer has probable cause to believe has committed an offense under Section 25.07, Penal Code, if the offense is committed in the presence of the peace officer.

(c) If reasonably necessary to verify an allegation of a violation of a protective order or of the commission of an offense involving family violence, a peace officer shall remain at the scene of the investigation to verify the allegation and to prevent the further commission of the violation or of family violence.

(d) A peace officer who is outside his jurisdiction may arrest, without warrant, a person who commits an offense within the officer's presence or view, if the offense is a felony, a violation of Chapter 42 or 49, Penal Code, or a breach of the peace. A peace officer making an arrest under this subsection shall, as soon as practicable after making the arrest, notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of the person committing the offense and take the person before a magistrate in compliance with Article 14.06 of this code.

(e) The justification for conduct provided under Section 9.21, Penal Code, applies to a peace officer when the peace officer is performing a duty required by this article.

(f) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(g)(1) A peace officer listed in Subdivision (1), (2), or (5), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the

officer's presence or view, other than a violation of Subtitle C, Title 7, Transportation Code.

(2) A peace officer listed in Subdivision (3), Article 2.12, who is licensed under Chapter 1701, Occupations Code, and is outside of the officer's jurisdiction may arrest without a warrant a person who commits any offense within the officer's presence or view, except that an officer described in this subdivision who is outside of that officer's jurisdiction may arrest a person for a violation of Subtitle C, Title 7, Transportation Code, only if the offense is committed in the county or counties in which the municipality employing the peace officer is located.

(3) A peace officer making an arrest under this subsection shall as soon as practicable after making the arrest notify a law enforcement agency having jurisdiction where the arrest was made. The law enforcement agency shall then take custody of:

(A) the person committing the offense and take the person before a magistrate in compliance with Article 14.06; and

(B) any property seized during or after the arrest as if the property had been seized by a peace officer of that law enforcement agency.

(h)(1) A peace officer who is acting in the lawful discharge of the officer's official duties may disarm a person at any time the officer reasonably believes it is necessary for the protection of the person, officer, or another individual. The peace officer shall return the handgun to the person before discharging the person from the scene if the officer determines that the person is not a threat to the officer, person, or another individual and if the person has not committed a violation that results in the arrest of the person.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person when the person enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker or other secure area where the peace officer can secure the person's handgun. The peace officer shall secure the handgun in

the locker or other secure area and shall return the handgun to the person immediately after the person leaves the nonpublic, secure portion of the law enforcement facility.

(3) For purposes of this subsection, "law enforcement facility" and "nonpublic, secure portion of a law enforcement facility" have the meanings assigned by Section [411.207](#), Government Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, Sec. 9, eff. Aug. 28, 1967.

Amended by Acts 1981, 67th Leg., p. 1865, ch. 442, Sec. 1, eff. Aug. 31, 1981; Acts 1985, 69th Leg., ch. 583, Sec. 2, eff. Sept. 1, 1985; Subsec. (c) amended by Acts 1987, 70th Leg., ch. 68, Sec. 1, eff. Sept. 1, 1987; Subsecs. (a), (b) amended by and (d), (e) added by Acts 1989, 71st Leg., ch. 740, Sec. 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 542, Sec. 9, eff. Sept. 1, 1991; Subsecs. (a), (d) amended by Acts 1993, 73rd Leg., ch. 900, Sec. 3.02, eff. Sept. 1, 1994; Subsecs. (a), (b) amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.17, eff. Sept. 1, 1995; Subsec. (g) added by Acts 1995, 74th Leg., ch. 829, Sec. 1, eff. Aug. 28, 1995; Subsec. (g) amended by Acts 1999, 76th Leg., ch. 62, Sec. 3.02, eff. Sept. 1, 1999; amended by Acts 1999, 76th Leg., ch. 210, Sec. 2, eff. May 24, 1999; Subsec. (a) amended by Acts 2003, 78th Leg., ch. 460, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 836, Sec. 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 989, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1164, Sec. 2, eff. Sept. 1, 2003; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 836, Sec. 2, eff. Sept. 1, 2003; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 836, Sec. 2, eff. Sept. 1, 2003; Subsec. (d) amended by Acts 2003, 78th Leg., ch. 897, Sec. 1, eff. Sept. 1, 2003; Subsec. (f) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(d), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 788 (S.B. [91](#)), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 788 (S.B. [91](#)), Sec. 5, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 847 (S.B. [907](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1015 (H.B. 915), Sec. 1, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1133 (S.B. 147), Sec. 5, eff. September 1, 2015.

Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 3, eff. September 1, 2021.

Art. 14.031. PUBLIC INTOXICATION. (a) In lieu of arresting an individual who is not a child, as defined by Section 51.02, Family Code, and who commits an offense under Section 49.02, Penal Code, a peace officer may release the individual if:

(1) the officer believes detention in a penal facility is unnecessary for the protection of the individual or others; and

(2) the individual:

(A) is released to the care of an adult who agrees to assume responsibility for the individual;

(B) verbally consents to voluntary treatment for substance use in a program in a treatment facility licensed and approved by the Health and Human Services Commission, and the program admits the individual for treatment; or

(C) verbally consents to voluntary admission to a facility that provides a place for individuals to become sober under supervision, and the facility admits the individual for supervision.

(b) A magistrate may release from custody an individual who is not a child, as defined by Section 51.02, Family Code, and who is arrested under Section 49.02, Penal Code, if the magistrate determines the individual meets the conditions required for release in lieu of arrest under Subsection (a) of this article.

(c) The release of an individual under Subsection (a) or (b) of this article to a substance use treatment program or a facility that provides a place for individuals to become sober under supervision may not be considered by a peace officer or magistrate in determining whether the individual should be released to such a program or facility for a subsequent incident or arrest under Section 49.02, Penal Code.

(d) A peace officer and the agency or political subdivision

that employs the peace officer may not be held liable for damage to persons or property that results from the actions of an individual released under Subsection (a) or (b) of this article.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 1.04, eff. Sept. 1, 1994.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 311 (H.B. 558), Sec. 1, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1 (S.B. 306), Sec. 1, eff. April 25, 2019.

Art. 14.035. AUTHORITY TO RELEASE IN LIEU OF ARREST CERTAIN PERSONS WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITY. (a) This article applies only to a person with an intellectual or developmental disability who resides at one of the following types of facilities operated under the home and community-based services waiver program in accordance with Section 1915(c) of the Social Security Act (42 U.S.C. Section 1396n):

- (1) a group home; or
- (2) an intermediate care facility for persons with an intellectual or developmental disability (ICF/IID) as defined by 40 T.A.C. Section 9.153.

(b) In lieu of arresting a person described by Subsection (a), a peace officer may release the person at the person's residence if the officer:

- (1) believes confinement of the person in a correctional facility as defined by Section 1.07, Penal Code, is unnecessary to protect the person and the other persons who reside at the residence; and

- (2) made reasonable efforts to consult with the staff at the person's residence and with the person regarding that decision.

(c) A peace officer and the agency or political subdivision that employs the peace officer may not be held liable for damage to persons or property that results from the actions of a person released under Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 460 (H.B. 3540), Sec. 1,

eff. September 1, 2019.

Art. 14.04. WHEN FELONY HAS BEEN COMMITTED. Where it is shown by satisfactory proof to a peace officer, upon the representation of a credible person, that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, such peace officer may, without warrant, pursue and arrest the accused.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 14.05. RIGHTS OF OFFICER. In each case enumerated where arrests may be lawfully made without warrant, the officer or person making the arrest is justified in adopting all the measures which he might adopt in cases of arrest under warrant, except that an officer making an arrest without a warrant may not enter a residence to make the arrest unless:

(1) a person who resides in the residence consents to the entry; or

(2) exigent circumstances require that the officer making the arrest enter the residence without the consent of a resident or without a warrant.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Amended by Acts 1987, 70th Leg., ch. 532, Sec. 1, eff. Aug. 31, 1987.

Art. 14.051. ARREST BY PEACE OFFICER FROM OTHER JURISDICTION.

(a) A peace officer commissioned and authorized by another state to make arrests for felonies who is in fresh pursuit of a person for the purpose of arresting that person for a felony may continue the pursuit into this state and arrest the person.

(b) In this article, "fresh pursuit" means a pursuit without unreasonable delay by a peace officer of a person the officer reasonably suspects has committed a felony.

Added by Acts 1989, 71st Leg., ch. 997, Sec. 2, eff. Aug. 28, 1989.

Art. 14.055. DUTY OF OFFICER TO NOTIFY PROBATE COURT.

(a) In this article, "ward" has the meaning assigned by Section

22.033, Estates Code.

(b) As soon as practicable, but not later than the first working day after the date a peace officer detains or arrests a person who is a ward, the peace officer or the person having custody of the ward shall notify the court having jurisdiction over the ward's guardianship of the ward's detention or arrest.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 1, eff. September 1, 2017.

Art. 14.06. MUST TAKE OFFENDER BEFORE MAGISTRATE. (a) Except as otherwise provided by this article, in each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall take the person arrested or have him taken without unnecessary delay, but not later than 48 hours after the person is arrested, before the magistrate who may have ordered the arrest, before some magistrate of the county where the arrest was made without an order, or, to provide more expeditiously to the person arrested the warnings described by Article 15.17 of this Code, before a magistrate in any other county of this state. The magistrate shall immediately perform the duties described in Article 15.17 of this Code.

(b) A peace officer who is charging a person, including a child, with committing an offense that is a Class C misdemeanor, other than an offense under Section 49.02, Penal Code, may, instead of taking the person before a magistrate, issue a citation to the person that contains:

(1) written notice of the time and place the person must appear before a magistrate;

(2) the name and address of the person charged;

(3) the offense charged;

(4) information regarding the alternatives to the full payment of any fine or costs assessed against the person, if the person is convicted of the offense and is unable to pay that amount; and

(5) the following admonishment, in boldfaced or underlined type or in capital letters:

"If you are convicted of a misdemeanor offense involving

violence where you are or were a spouse, intimate partner, parent, or guardian of the victim or are or were involved in another, similar relationship with the victim, it may be unlawful for you to possess or purchase a firearm, including a handgun or long gun, or ammunition, pursuant to federal law under 18 U.S.C. Section 922(g)(9) or Section 46.04(b), Texas Penal Code. If you have any questions whether these laws make it illegal for you to possess or purchase a firearm, you should consult an attorney."

(c) If the person resides in the county where the offense occurred, a peace officer who is charging a person with committing an offense that is a Class A or B misdemeanor may, instead of taking the person before a magistrate, issue a citation to the person that contains written notice of the time and place the person must appear before a magistrate of this state as described by Subsection (a), the name and address of the person charged, and the offense charged.

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) of that section;

(4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7) Section 521.457, Transportation Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1735, ch. 659, Sec. 10, eff. Aug. 28, 1967.

Amended by Acts 1987, 70th Leg., ch. 455, Sec. 1, eff. Aug. 31,

1987; Acts 1991, 72nd Leg., ch. 84, Sec. 1, eff. Sept. 1, 1991. Subsec. (b) amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.05, eff. Sept. 1, 1994; amended by Acts 1995, 74th Leg., ch. 262, Sec. 81, eff. Jan. 1, 1996; Subsec. (a) amended by Acts 2001, 77th Leg., ch. 906, Sec. 3, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. [2120](#)), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 320 (H.B. [2391](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1379 (S.B. [1236](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 170 (S.B. [331](#)), Sec. 7, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1251 (H.B. [1396](#)), Sec. 9, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. [351](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. [1913](#)), Sec. 1, eff. September 1, 2017.