CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 15. ARREST UNDER WARRANT

Art. 15.01. WARRANT OF ARREST. A "warrant of arrest" is a written order from a magistrate, directed to a peace officer or some other person specially named, commanding him to take the body of the person accused of an offense, to be dealt with according to law.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.02. REQUISITES OF WARRANT. It issues in the name of "The State of Texas", and shall be sufficient, without regard to form, if it have these substantial requisites:

1. It must specify the name of the person whose arrest is ordered, if it be known, if unknown, then some reasonably definite description must be given of him.

2. It must state that the person is accused of some offense against the laws of the State, naming the offense.

3. It must be signed by the magistrate, and his office be named in the body of the warrant, or in connection with his signature.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.03. MAGISTRATE MAY ISSUE WARRANT OR SUMMONS. (a) A magistrate may issue a warrant of arrest or a summons:

1. In any case in which he is by law authorized to order verbally the arrest of an offender;

2. When any person shall make oath before the magistrate that another has committed some offense against the laws of the State; and

3. In any case named in this Code where he is specially authorized to issue warrants of arrest.

(b) A summons may be issued in any case where a warrant may be issued, and shall be in the same form as the warrant except that it shall summon the defendant to appear before a magistrate at a stated time and place. The summons shall be served upon a defendant by delivering a copy to him personally, or by leaving it at his

dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by mailing it to the defendant's last known address. If a defendant fails to appear in response to the summons a warrant shall be issued.

(c) For purposes of Subdivision 2, Subsection (a), a person may appear before the magistrate in person or the person's image may be presented to the magistrate through an electronic broadcast system.

(d) A recording of the communication between the person and the magistrate must be made if the person's image is presented through an electronic broadcast system under Subsection (c). If the defendant is charged with the offense, the recording must be preserved until:

(1) the defendant is acquitted of the offense; or

(2) all appeals relating to the offense have been exhausted.

(e) The counsel for the defendant may obtain a copy of the recording on payment of an amount reasonably necessary to cover the costs of reproducing the recording.

(f) In this article, "electronic broadcast system" means a two-way electronic communication of image and sound between a person and magistrate and includes secure Internet videoconferencing.

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

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 248 (H.B. 976), Sec. 1, eff. June 17, 2011.

Art. 15.04. COMPLAINT. The affidavit made before the magistrate or district or county attorney is called a "complaint" if it charges the commission of an offense.

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

Art. 15.05. REQUISITES OF COMPLAINT. The complaint shall be sufficient, without regard to form, if it have these substantial requisites:

1. It must state the name of the accused, if known, and if not

known, must give some reasonably definite description of him.

2. It must show that the accused has committed some offense against the laws of the State, either directly or that the affiant has good reason to believe, and does believe, that the accused has committed such offense.

3. It must state the time and place of the commission of the offense, as definitely as can be done by the affiant.

4. It must be signed by the affiant by writing his name or affixing his mark.

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

Art. 15.051. REQUIRING POLYGRAPH EXAMINATION OF COMPLAINANT PROHIBITED. (a) A peace officer or an attorney representing the state may not require a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code.

(b) If a peace officer or an attorney representing the state requests a polygraph examination of a person who charges or seeks to charge in a complaint the commission of an offense listed in Subsection (a), the officer or attorney must inform the complainant that the examination is not required and that a complaint may not be dismissed solely:

(1) because a complainant did not take a polygraph examination; or

(2) on the basis of the results of a polygraph examination taken by the complainant.

(c) A peace officer or an attorney representing the state may not take a polygraph examination of a person who charges or seeks to charge the commission of an offense listed in Subsection (a) unless the officer or attorney provides the information in Subsection (b) to the person and the person signs a statement indicating the person understands the information.

(d) A complaint may not be dismissed solely:

(1) because a complainant did not take a polygraph examination; or

(2) on the basis of the results of a polygraph examination

taken by the complainant.

Added by Acts 1995, 74th Leg., ch. 24, Sec. 1, eff. Sept. 1, 1995.

Amended by Acts 1997, 75th Leg., ch. 608, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.07, eff. September 1, 2007.

Art. 15.06. WARRANT EXTENDS TO EVERY PART OF THE STATE. A warrant of arrest, issued by any county or district clerk, or by any magistrate (except mayors of an incorporated city or town), shall extend to any part of the State; and any peace officer to whom said warrant is directed, or into whose hands the same has been transferred, shall be authorized to execute the same in any county in this State.

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

Amended by Acts 1985, 69th Leg., ch. 666, Sec. 1, eff. June 14, 1985.

Art. 15.07. WARRANT ISSUED BY OTHER MAGISTRATE. When a warrant of arrest is issued by any mayor of an incorporated city or town, it cannot be executed in another county than the one in which it issues, except:

1. It be endorsed by a judge of a court of record, in which case it may be executed anywhere in the State; or

2. If it be endorsed by any magistrate in the county in which the accused is found, it may be executed in such county. The endorsement may be: "Let this warrant be executed in the county of .....". Or, if the endorsement is made by a judge of a court of record, then the endorsement may be: "Let this warrant be executed in any county of the State of Texas". Any other words of the same meaning will be sufficient. The endorsement shall be dated, and signed officially by the magistrate making it.

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

Amended by Acts 1985, 69th Leg., ch. 666, Sec. 2, eff. June 14, 1985.

Art. 15.08. WARRANT MAY BE FORWARDED. A warrant of arrest may be forwarded by any method that ensures the transmission of a duplicate of the original warrant, including secure facsimile transmission or other secure electronic means. If issued by any magistrate named in Article 15.06, the peace officer receiving the same shall execute it without delay. If it be issued by any other magistrate than is named in Article 15.06, the peace officer receiving the same shall proceed with it to the nearest magistrate of the peace officer's county, who shall endorse thereon, in substance, these words:

"Let this warrant be executed in the county of . . . . . ", which endorsement shall be dated and signed officially by the magistrate making the same.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 345 (H.B. 1060), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 771 (H.B. 2300), Sec. 1, eff. September 1, 2015.

Art. 15.09. COMPLAINT MAY BE FORWARDED. A complaint in accordance with Article 15.05, may be forwarded as provided by Article 15.08 to any magistrate in the State; and the magistrate who receives the same shall forthwith issue a warrant for the arrest of the accused; and the accused, when arrested, shall be dealt with as provided in this Chapter in similar cases.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 345 (H.B. 1060), Sec. 1, eff. September 1, 2009.

Art. 15.14. ARREST AFTER DISMISSAL BECAUSE OF DELAY. If a prosecution of a defendant is dismissed under Article 32.01, the defendant may be rearrested for the same criminal conduct alleged in the dismissed prosecution only upon presentation of indictment or information for the offense and the issuance of a capias subsequent to the indictment or information.

Added by Acts 1997, 75th Leg., ch. 289, Sec. 3, eff. May 26, 1997.

Art. 15.16. HOW WARRANT IS EXECUTED. (a) The officer or person executing a warrant of arrest shall without unnecessary delay take the person or have him taken before the magistrate who issued the warrant or before the magistrate named in the warrant, if the magistrate is in the same county where the person is arrested. If the issuing or named magistrate is in another county, the person arrested shall without unnecessary delay be taken before some magistrate in the county in which he was arrested.

(b) Notwithstanding Subsection (a), to provide more expeditiously to the person arrested the warnings described by Article 15.17, the officer or person executing the arrest warrant may as permitted by that article take the person arrested before a magistrate in a county other than the county of arrest.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, Sec. 11, eff. Aug. 28, 1967.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 2, eff. September 1, 2005.

Art. 15.17. DUTIES OF ARRESTING OFFICER AND MAGISTRATE. (a) In each case enumerated in this Code, the person making the arrest or the person having custody of the person arrested shall without unnecessary delay, but not later than 48 hours after the person is arrested, take the person arrested or have him taken before some magistrate of the county where the accused was arrested or, to provide more expeditiously to the person arrested the warnings described by this article, before a magistrate in any other county of this state. The arrested person may be taken before the magistrate in person or the image of the arrested person may be presented to the magistrate by means of a videoconference. The magistrate shall inform in clear language the person arrested, either in person or through a videoconference, of the accusation against him and of any affidavit filed therewith, of his right to retain counsel, of his right to remain silent, of his right to have an attorney present during any interview with

peace officers or attorneys representing the state, of his right to terminate the interview at any time, and of his right to have an examining trial. The magistrate shall also inform the person arrested of the person's right to request the appointment of counsel if the person cannot afford counsel. The magistrate shall inform the person arrested of the procedures for requesting appointment of counsel. If the person does not speak and understand the English language or is deaf, the magistrate shall inform the person in a manner consistent with Articles 38.30 and 38.31, as appropriate. The magistrate shall ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the person arrested is indigent and requests appointment of counsel and if the magistrate is authorized under Article 26.04 to appoint counsel for indigent defendants in the county, the magistrate shall appoint counsel in accordance with Article 1.051. If the magistrate is not authorized to appoint counsel, the magistrate shall without unnecessary delay, but not later than 24 hours after the person arrested requests appointment of counsel, transmit, or cause to be transmitted to the court or to the courts' designee authorized under Article 26.04 to appoint counsel in the county, the forms requesting the appointment of counsel. The magistrate shall also inform the person arrested that he is not required to make a statement and that any statement made by him may be used against him. The magistrate shall allow the person arrested reasonable time and opportunity to consult counsel and shall, after determining whether the person is currently on bail for a separate criminal offense, admit the person arrested to bail if allowed by law. A record of the communication between the arrested person and the magistrate shall be made. The record shall be preserved until the earlier of the following dates: (1) the date on which the pretrial hearing ends; or (2) the 91st day after the date on which the record is made if the person is charged with a misdemeanor or the 120th day after the date on which the record is made if the person is charged with a felony. For purposes of this subsection, "videoconference" means a two-way electronic communication of image and sound between the arrested person and

the magistrate and includes secure Internet videoconferencing.

(a-1) If a magistrate is provided written or electronic notice of credible information that may establish reasonable cause to believe that a person brought before the magistrate has a mental illness or is a person with an intellectual disability, the magistrate shall conduct the proceedings described by Article 16.22 or 17.032, as appropriate.

(b) After an accused charged with a misdemeanor punishable by fine only is taken before a magistrate under Subsection (a) and the magistrate has identified the accused with certainty, the magistrate may release the accused without bond and order the accused to appear at a later date for arraignment in the applicable justice court or municipal court. The order must state in writing the time, date, and place of the arraignment, and the magistrate must sign the order. The accused shall receive a copy of the order on release. If an accused fails to appear as required by the order, the judge of the court in which the accused is required to appear shall issue a warrant for the arrest of the accused. If the accused is arrested and brought before the judge, the judge may admit the accused to bail, and in admitting the accused to bail, the judge should set as the amount of bail an amount double that generally set for the offense for which the accused was arrested. This subsection does not apply to an accused who has previously been convicted of a felony or a misdemeanor other than a misdemeanor punishable by fine only.

(c) When a deaf accused is taken before a magistrate under this article or Article 14.06 of this Code, an interpreter appointed by the magistrate qualified and sworn as provided in Article 38.31 of this Code shall interpret the warning required by those articles in a language that the accused can understand, including but not limited to sign language.

(d) If a magistrate determines that a person brought before the magistrate after an arrest authorized by Article 14.051 of this code was arrested unlawfully, the magistrate shall release the person from custody. If the magistrate determines that the arrest was lawful, the person arrested is considered a fugitive from justice for the purposes of Article 51.13 of this code, and the

disposition of the person is controlled by that article.

(e) In each case in which a person arrested is taken before a magistrate as required by Subsection (a) or Article 15.18(a), a record shall be made of:

(1) the magistrate informing the person of the person's right to request appointment of counsel;

(2) the magistrate asking the person whether the person wants to request appointment of counsel; and

(3) whether the person requested appointment of counsel.

(f) A record required under Subsection (a) or (e) may consist of written forms, electronic recordings, or other documentation as authorized by procedures adopted in the county under Article 26.04(a). The counsel for the defendant may obtain a copy of the record on payment of a reasonable amount to cover the costs of reproduction or, if the defendant is indigent, the court shall provide a copy to the defendant without charging a cost for the copy.

(g) If a person charged with an offense punishable as a misdemeanor appears before a magistrate in compliance with a citation issued under Article 14.06(b) or (c), the magistrate shall perform the duties imposed by this article in the same manner as if the person had been arrested and brought before the magistrate by a peace officer. After the magistrate performs the duties imposed by this article, the magistrate except for good cause shown may release the person on personal bond. If a person who was issued a citation under Article 14.06(c) fails to appear as required by that citation, the magistrate before which the person is required to appear shall issue a warrant for the arrest of the accused.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, Sec. 12, eff. Aug. 28, 1967.

Amended by Acts 1979, 66th Leg., p. 398, ch. 186, Sec. 3, eff. May 15, 1979; Subsec. (a) amended by Acts 1987, 70th Leg., ch. 455, Sec. 2, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 467, Sec. 1, eff. Aug. 28, 1989; Sec. (a) amended by Acts 1989, 71st Leg., ch. 977, Sec. 1, eff. Aug. 28, 1989; Subsec. (c) added by Acts 1989, 71st Leg., ch. 997, Sec. 3, eff. Aug. 28, 1989; Subsec. (d)

relettered from subsec. (c) by Acts 1991, 72nd Leg., ch. 16, Sec. 19.01(2), eff. Aug. 26, 1991; Subsec. (a) amended by Acts 2001, 77th Leg., ch. 906, Sec. 4, eff. Jan. 1, 2002; Subsec. (a) amended by Acts 2001, 77th Leg., ch. 1281, Sec. 1, eff. Sept. 1, 2001; Subsec. (e) added by Acts 2001, 77th Leg., ch. 906, Sec. 4, eff. Jan. 1, 2002; Subsec. (f) added by Acts 2001, 77th Leg., ch. 906, Sec. 4, eff. Jan. 1, 2002.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 320 (H.B. 2391), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 735 (S.B. 415), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 858 (S.B. 1517), Sec. 2, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 748 (S.B. 1326), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. 3165), Sec. 1, eff. September 1, 2017.

Art. 15.171. 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 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 arrest.

Added by Acts 2017, 85th Leg., R.S., Ch. 313 (S.B. 1096), Sec. 2, eff. September 1, 2017.

Art. 15.18. ARREST FOR OUT-OF-COUNTY OFFENSE. (a) A person arrested under a warrant issued in a county other than the one in which the person is arrested shall be taken before a magistrate of the county where the arrest takes place or, to provide more expeditiously to the arrested person the warnings described by

Article 15.17, before a magistrate in any other county of this state, including the county where the warrant was issued. The magistrate shall:

(1) take bail, if allowed by law, and, if without jurisdiction, immediately transmit the bond taken to the court having jurisdiction of the offense; or

(2) in the case of a person arrested under warrant for an offense punishable by fine only, accept a written plea of guilty or nolo contendere, set a fine, determine costs, accept payment of the fine and costs, give credit for time served, determine indigency, or, on satisfaction of the judgment, discharge the defendant, as the case may indicate.

(a-1) If the arrested person is taken before a magistrate of a county other than the county that issued the warrant, the magistrate shall inform the person arrested of the procedures for requesting appointment of counsel and ensure that reasonable assistance in completing the necessary forms for requesting appointment of counsel is provided to the person at the same time. If the person requests the appointment of counsel, the magistrate shall, without unnecessary delay but not later than 24 hours after the person requested the appointment of counsel, transmit, or cause to be transmitted, the necessary request forms to a court or the courts' designee authorized under Article 26.04 to appoint counsel in the county issuing the warrant.

(b) Before the 11th business day after the date a magistrate accepts a written plea of guilty or nolo contendere in a case under Subsection (a)(2), the magistrate shall, if without jurisdiction, transmit to the court having jurisdiction of the offense:

(1) the written plea;

(2) any orders entered in the case; and

(3) any fine or costs collected in the case.

(c) The arrested person may be taken before a magistrate by means of an electronic broadcast system as provided by and subject to the requirements of Article 15.17.

(d) This article does not apply to an arrest made pursuant to a capias pro fine issued under Chapter 43 or Article 45.045.

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

Amended by Acts 2001, 77th Leg., ch. 145, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1263 (H.B. 3060), Sec. 1, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 858 (S.B. 1517), Sec. 3, eff. September 1, 2015.

Art. 15.19. NOTICE OF ARREST. (a) If the arrested person fails or refuses to give bail, as provided in Article 15.18, the arrested person shall be committed to the jail of the county where the person was arrested. The magistrate committing the arrested person shall immediately provide notice to the sheriff of the county in which the offense is alleged to have been committed regarding:

(1) the arrest and commitment, which notice may be given by mail or other written means or by secure facsimile transmission or other secure electronic means; and

(2) whether the person was also arrested under a warrant issued under Section 508.251, Government Code.

(b) If a person is arrested and taken before a magistrate in a county other than the county in which the arrest is made and if the person is remanded to custody, the person may be confined in a jail in the county in which the magistrate serves for a period of not more than 72 hours after the arrest before being transferred to the county jail of the county in which the arrest occurred.

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

Amended by Acts 1987, 70th Leg., 2nd C.S., ch. 40, Sec. 1, eff. Oct. 20, 1987.

Amended by:

Acts 2005, 79th Leg., Ch. 1094 (H.B. 2120), Sec. 5, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 1, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 345 (H.B. 1060), Sec. 2, eff.

September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 771 (H.B. 2300), Sec. 2, eff. September 1, 2015.

Art. 15.20. DUTY OF SHERIFF RECEIVING NOTICE. (a) Subject to Subsection (b), the sheriff receiving the notice of arrest and commitment under Article 15.19 shall forthwith go or send for the arrested person and have the arrested person brought before the proper court or magistrate.

(b) A sheriff who receives notice under Article 15.19(a)(2) of a warrant issued under Section 508.251, Government Code, shall have the arrested person brought before the proper magistrate or court before the 11th day after the date the person is committed to the jail of the county in which the person was arrested.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 2, eff. June 15, 2007.

Art. 15.21. RELEASE ON PERSONAL BOND IF NOT TIMELY DEMANDED. If the proper office of the county where the offense is alleged to have been committed does not demand an arrested person described by Article 15.19 and take charge of the arrested person before the 11th day after the date the person is committed to the jail of the county in which the person is arrested, a magistrate in the county where the person was arrested shall:

(1) release the arrested person on personal bond without sureties or other security; and

(2) forward the personal bond to:

(A) the sheriff of the county where the offense is alleged to have been committed; or

(B) the court that issued the warrant of arrest.

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

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 3, eff. June 15, 2007.

Acts 2017, 85th Leg., R.S., Ch. 1064 (H.B. 3165), Sec. 2, eff.

September 1, 2017.

Art. 15.22. WHEN A PERSON IS ARRESTED. A person is arrested when he has been actually placed under restraint or taken into custody by an officer or person executing a warrant of arrest, or by an officer or person arresting without a warrant.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.23. TIME OF ARREST. An arrest may be made on any day or at any time of the day or night.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.24. WHAT FORCE MAY BE USED. In making an arrest, all reasonable means are permitted to be used to effect it. No greater force, however, shall be resorted to than is necessary to secure the arrest and detention of the accused.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.25. MAY BREAK DOOR. In case of felony, the officer may break down the door of any house for the purpose of making an arrest, if he be refused admittance after giving notice of his authority and purpose.
Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 15.26. AUTHORITY TO ARREST MUST BE MADE KNOWN. In executing a warrant of arrest, it shall always be made known to the accused under what authority the arrest is made. The warrant shall be executed by the arrest of the defendant. The officer need not have the warrant in his possession at the time of the arrest, provided the warrant was issued under the provisions of this Code, but upon request he shall show the warrant to the defendant as soon as possible. If the officer does not have the warrant in his possession at the time of arrest he shall then inform the defendant of the offense charged and of the fact that a warrant has been issued. The arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, is public information, and beginning immediately when the warrant is executed

the magistrate's clerk shall make a copy of the warrant and the affidavit available for public inspection in the clerk's office during normal business hours. A person may request the clerk to provide copies of the warrant and affidavit on payment of the cost of providing the copies.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1736, ch. 659, Sec. 13, eff. Aug. 28, 1967.

Amended by Acts 2003, 78th Leg., ch. 390, Sec. 1, eff. Sept. 1, 2003.

Art. 15.27. NOTIFICATION TO SCHOOLS REQUIRED. (a) A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h), shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or before the next school day, whichever is earlier. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the head of the agency or a person designated by the head of the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or before the next school day, whichever is earlier. If the individual is a student, the superintendent or the superintendent's designee shall immediately notify all instructional and support personnel who have responsibility for supervision of the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is

given, the head of the law enforcement agency or the person designated by the head of the agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must include the facts contained in the oral notification, the name of the person who was orally notified, and the date and time of the oral notification. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code or whether it is necessary to conduct a threat assessment or prepare a safety plan related to the student. The information contained in the notice shall be considered by the superintendent or the superintendent's designee in making such a determination.

(a-1) The superintendent or a person designated by the superintendent in the school district shall send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice under Subsection (a).

(b) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication and whether the student is required to register as a sex offender under Chapter 62. Oral notification must be given within 24 hours of the time of the order or before the next school day, whichever is earlier. The superintendent shall, within 24 hours of receiving notification from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is

given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender under Chapter 62.

(c) A parole, probation, or community supervision office, including a community supervision and corrections department, a juvenile probation department, the paroles division of the Texas Department of Criminal Justice, and the Texas Juvenile Justice Department, having jurisdiction over a student described by Subsection (a), (b), or (e) who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court, conviction, or adjudication occurred shall within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier, notify the superintendent or a person designated by the superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal or a school employee designated by the principal of the school to which the student transfers or is returned of the arrest or referral in a manner similar to that provided for by Subsection (a) or (e)(1), or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2). The superintendent of the school district to which the student transfers or is returned or, in the case of a private school, the principal of the school to which the student transfers or is returned shall, within 24 hours of receiving notification under this subsection or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1240, Sec. 5, eff. June 15, 2007.

(e)(1) A law enforcement agency that arrests, or refers to a juvenile court under Chapter 52, Family Code, an individual who the law enforcement agency knows or believes is enrolled as a student in

a private primary or secondary school shall make the oral and written notifications described by Subsection (a) to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled or a school employee designated by the principal shall send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice, for the same purposes as described by Subsection (a-1) of this article.

(f) A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

(h) This article applies to any felony offense and the following misdemeanors:

(1) an offense under Section 20.02, 21.08, 22.01, 22.05, 22.07, or 71.02, Penal Code;

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code; or

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code, or a weapon listed as a prohibited weapon under Section 46.05, Penal Code.

(i) A person may substitute electronic notification for oral notification where oral notification is required by this article. If electronic notification is substituted for oral notification, any written notification required by this article is not required.

(j) The notification provisions of this section concerning a person who is required to register as a sex offender under Chapter 62 do not lessen the requirement of a person to provide any additional notification prescribed by that chapter.

(k) Oral or written notice required under this article must include all pertinent details of the offense or conduct, including details of any:

(1) assaultive behavior or other violence;

(2) weapons used in the commission of the offense or conduct; or

(3) weapons possessed during the commission of the offense or conduct.

(k-1) In addition to the information provided under Subsection (k), the law enforcement agency shall provide to the superintendent or superintendent's designee information relating to the student that is requested for the purpose of conducting a threat assessment or preparing a safety plan relating to that student. A school board may enter into a memorandum of understanding with a law enforcement agency regarding the exchange of information relevant to conducting a threat assessment or preparing a safety plan. Absent a memorandum of understanding, the information requested by the superintendent or the superintendent's designee shall be considered relevant.

(l) If a school district board of trustees learns of a failure by the superintendent of the district or a district principal to provide a notice required under Subsection (a), (a-1), or (b), the board of trustees shall report the failure to the State Board for Educator Certification. If the governing body of a private primary or secondary school learns of a failure by the principal of the school to provide a notice required under Subsection (e), and the principal holds a certificate issued under Subchapter B, Chapter 21, Education Code, the governing body shall report the failure to the State Board for Educator Certification.

(m) If the superintendent of a school district in which the student is enrolled learns of a failure of the head of a law enforcement agency or a person designated by the head of the agency to provide a notification under Subsection (a), the superintendent or principal shall report the failure to notify to the Texas Commission on Law Enforcement.

(n) If a juvenile court judge or official designated by the juvenile board learns of a failure by the office of the prosecuting attorney to provide a notification required under Subsection (b) or (g), the official shall report the failure to notify to the elected prosecuting attorney responsible for the operation of the office.

(o) If the supervisor of a parole, probation, or community supervision department officer learns of a failure by the officer to provide a notification under Subsection (c), the supervisor shall report the failure to notify to the director of the entity that employs the officer.

Added by Acts 1993, 73rd Leg., ch. 461, Sec. 1, eff. Sept. 1, 1993. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 626, Sec. 1, eff. Aug. 28, 1995; Subsec. (h) amended by Acts 1995, 74th Leg., ch. 76, Sec. 14.18, eff. Sept. 1, 1995; Subsec. (a) amended by Acts 1997, 75th Leg., ch. 1015, Sec. 12, eff. June 19, 1997; amended by Acts 1997, 75th Leg., ch. 1233, Sec. 1, eff. June 20, 1997; Subsec. (b) amended by Acts 1997, 75th Leg., ch. 1233, Sec. 1, eff. June 20, 1997; Subsec. (c) amended by Acts 1997, 75th Leg., ch. 1015, Sec. 12, eff. June 19, 1997; amended by Acts 1997, 75th Leg., ch. 1233, Sec. 1, eff. June 20, 1997; Subsec. (e)(1) amended by Acts 1997, 75th Leg., ch. 1015, Sec. 13, eff. June 19, 1997; Subsec. (g)

amended by Acts 1997, 75th Leg., ch. 1015, Sec. 14, eff. June 19, 1997; Subsec. (h) amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.02, eff. Sept. 1, 1997; amended by Acts 1997, 75th Leg., ch. 1015, Sec. 12, eff. June 19, 1997; amended by Acts 1997, 75th Leg., ch. 1233, Sec. 1, eff. June 20, 1997; Subsecs. (a), (g) amended by Acts 2001, 77th Leg., ch. 1297, Sec. 48, eff. Sept. 1, 2001; Subsec. (h) amended by Acts 2001, 77th Leg., ch. 1297, Sec. 49, eff. Sept. 1, 2001; Subsec. (b) amended by Acts 2003, 78th Leg., ch. 1055, Sec. 25, eff. June 20, 2003; Subsec. (e)(2) amended by Acts 2003, 78th Leg., ch. 1055, Sec. 26, eff. June 20, 2003; Subsec. (g) amended by Acts 2003, 78th Leg., ch. 1055, Sec. 27, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 949 (H.B. 1575), Sec. 31, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 492 (S.B. 230), Sec. 1, eff. June 16, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 4, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 5, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 8, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 6.002, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 992 (H.B. 1907), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 992 (H.B. 1907), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.07, eff. May 18, 2013.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 3, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 451 (S.B. 2135), Sec. 1, eff. September 1, 2019.