

PENAL CODE

TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY

CHAPTER 42. DISORDERLY CONDUCT AND RELATED OFFENSES

Sec. 42.01. DISORDERLY CONDUCT. (a) A person commits an offense if he intentionally or knowingly:

(1) uses abusive, indecent, profane, or vulgar language in a public place, and the language by its very utterance tends to incite an immediate breach of the peace;

(2) makes an offensive gesture or display in a public place, and the gesture or display tends to incite an immediate breach of the peace;

(3) creates, by chemical means, a noxious and unreasonable odor in a public place;

(4) abuses or threatens a person in a public place in an obviously offensive manner;

(5) makes unreasonable noise in a public place other than a sport shooting range, as defined by Section 250.001, Local Government Code, or in or near a private residence that he has no right to occupy;

(6) fights with another in a public place;

(7) discharges a firearm in a public place other than a public road or a sport shooting range, as defined by Section 250.001, Local Government Code;

(8) displays a firearm or other deadly weapon in a public place in a manner calculated to alarm;

(9) discharges a firearm on or across a public road;

(10) exposes his anus or genitals in a public place and is reckless about whether another may be present who will be offended or alarmed by his act; or

(11) for a lewd or unlawful purpose:

(A) enters on the property of another and looks into a dwelling on the property through any window or other opening in the dwelling;

(B) while on the premises of a hotel or comparable establishment, looks into a guest room not the person's own through a window or other opening in the room; or

(C) while on the premises of a public place, looks into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

(a-1) For purposes of Subsection (a), the term "public place" includes a public school campus or the school grounds on which a public school is located.

(b) It is a defense to prosecution under Subsection (a)(4) that the actor had significant provocation for his abusive or threatening conduct.

(c) For purposes of this section:

(1) an act is deemed to occur in a public place or near a private residence if it produces its offensive or proscribed consequences in the public place or near a private residence; and

(2) a noise is presumed to be unreasonable if the noise exceeds a decibel level of 85 after the person making the noise receives notice from a magistrate or peace officer that the noise is a public nuisance.

(d) An offense under this section is a Class C misdemeanor unless committed under Subsection (a)(7) or (a)(8), in which event it is a Class B misdemeanor.

(e) It is a defense to prosecution for an offense under Subsection (a)(7) or (9) that the person who discharged the firearm had a reasonable fear of bodily injury to the person or to another by a dangerous wild animal as defined by Section [822.101](#), Health and Safety Code.

(f) Subsections (a)(1), (2), (3), (5), and (6) do not apply to a person who, at the time the person engaged in conduct prohibited under the applicable subdivision, was a student younger than 12 years of age, and the prohibited conduct occurred at a public school campus during regular school hours.

(g) Noise arising from space flight activities, as defined by Section [100A.001](#), Civil Practice and Remedies Code, if lawfully conducted, does not constitute "unreasonable noise" for purposes of this section.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974.
Amended by Acts 1977, 65th Leg., p. 181, ch. 89, Sec. 1, 2, eff. Aug.

29, 1977; Acts 1983, 68th Leg., p. 4641, ch. 800, Sec. 1, eff. Sept. 1, 1983; Acts 1991, 72nd Leg., ch. 145, Sec. 2, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 318, Sec. 14, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 54, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 389, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 6, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 953 (H.B. 1791), Sec. 6, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 19, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 9, eff. September 1, 2013.

Sec. 42.02. RIOT. (a) For the purpose of this section, "riot" means the assemblage of seven or more persons resulting in conduct which:

(1) creates an immediate danger of damage to property or injury to persons;

(2) substantially obstructs law enforcement or other governmental functions or services; or

(3) by force, threat of force, or physical action deprives any person of a legal right or disturbs any person in the enjoyment of a legal right.

(b) A person commits an offense if he knowingly participates in a riot.

(c) It is a defense to prosecution under this section that the assembly was at first lawful and when one of those assembled manifested an intent to engage in conduct enumerated in Subsection (a), the actor retired from the assembly.

(d) It is no defense to prosecution under this section that another who was a party to the riot has been acquitted, has not been arrested, prosecuted, or convicted, has been convicted of a different offense or of a different type or class of offense, or is immune from prosecution.

(e) Except as provided in Subsection (f), an offense under this section is a Class B misdemeanor.

(f) An offense under this section is an offense of the same classification as any offense of a higher grade committed by anyone engaged in the riot if the offense was:

(1) in the furtherance of the purpose of the assembly;
or

(2) an offense which should have been anticipated as a result of the assembly.

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. 42.03. OBSTRUCTING HIGHWAY OR OTHER PASSAGEWAY. (a) A person commits an offense if, without legal privilege or authority, he intentionally, knowingly, or recklessly:

(1) obstructs a highway, street, sidewalk, railway, waterway, elevator, aisle, hallway, entrance, or exit to which the public or a substantial group of the public has access, or any other place used for the passage of persons, vehicles, or conveyances, regardless of the means of creating the obstruction and whether the obstruction arises from his acts alone or from his acts and the acts of others; or

(2) disobeys a reasonable request or order to move issued by a person the actor knows to be or is informed is a peace officer, a fireman, or a person with authority to control the use of the premises:

(A) to prevent obstruction of a highway or any of those areas mentioned in Subdivision (1); or

(B) to maintain public safety by dispersing those gathered in dangerous proximity to a fire, riot, or other hazard.

(b) For purposes of this section, "obstruct" means to render impassable or to render passage unreasonably inconvenient or hazardous.

(c) An offense under this section is a Class B misdemeanor.
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. 42.04. DEFENSE WHEN CONDUCT CONSISTS OF SPEECH OR OTHER EXPRESSION. (a) If conduct that would otherwise violate Section 42.01(a)(5) (Unreasonable Noise), 42.03 (Obstructing Passageway), or 42.055 (Funeral Service Disruptions) consists of speech or other communication, of gathering with others to hear or observe such speech or communication, or of gathering with others to picket or otherwise express in a nonviolent manner a position on social, economic, political, or religious questions, the actor must be ordered to move, disperse, or otherwise remedy the violation prior to his arrest if he has not yet intentionally harmed the interests of others which those sections seek to protect.

(b) The order required by this section may be given by a peace officer, a fireman, a person with authority to control the use of the premises, or any person directly affected by the violation.

(c) It is a defense to prosecution under Section 42.01(a)(5), 42.03, or 42.055:

(1) that in circumstances in which this section requires an order no order was given;

(2) that an order, if given, was manifestly unreasonable in scope; or

(3) that an order, if given, was promptly obeyed.

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 2006, 79th Leg., 3rd C.S., Ch. 2 (H.B. 97), Sec. 2, eff. May 19, 2006.

Sec. 42.05. DISRUPTING MEETING OR PROCESSION. (a) A person commits an offense if, with intent to prevent or disrupt a lawful meeting, procession, or gathering, he obstructs or interferes with the meeting, procession, or gathering by physical action or verbal utterance.

(b) An offense under this section is a Class B misdemeanor.
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. 42.055. FUNERAL SERVICE DISRUPTIONS. (a) In this section:

(1) "Facility" means a building at which any portion of a funeral service takes place, including a funeral parlor, mortuary, private home, or established place of worship.

(2) "Funeral service" means a ceremony, procession, or memorial service, including a wake or viewing, held in connection with the burial or cremation of the dead.

(3) "Picketing" means:

(A) standing, sitting, or repeated walking, riding, driving, or other similar action by a person displaying or carrying a banner, placard, or sign;

(B) engaging in loud singing, chanting, whistling, or yelling, with or without noise amplification through a device such as a bullhorn or microphone; or

(C) blocking access to a facility or cemetery being used for a funeral service.

(b) A person commits an offense if, during the period beginning three hours before the service begins and ending three hours after the service is completed, the person engages in picketing within 1,000 feet of a facility or cemetery being used for a funeral service.

(c) An offense under this section is a Class B misdemeanor. Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 2 (H.B. 97), Sec. 1, eff. May 19, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 256 (H.B. 1093), Sec. 1, eff. June 4, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 716 (H.B. 718), Sec. 1, eff. September 1, 2011.

Sec. 42.06. FALSE ALARM OR REPORT. (a) A person commits an offense if he knowingly initiates, communicates or circulates a report of a present, past, or future bombing, fire, offense, or

other emergency that he knows is false or baseless and that would ordinarily:

(1) cause action by an official or volunteer agency organized to deal with emergencies;

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

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

(b) An offense under this section is a Class A misdemeanor unless the false report is of an emergency involving a public or private institution of higher education or involving a public primary or secondary school, public communications, public transportation, public water, gas, or power supply or other public service, in which event the offense is a state jail felony.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1114, ch. 530, Sec. 4, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 910 (H.B. [1284](#)), Sec. 2, eff. June 14, 2013.

Sec. 42.061. SILENT OR ABUSIVE CALLS TO 9-1-1 SERVICE.

(a) In this section "9-1-1 service" and "public safety answering point" or "PSAP" have the meanings assigned by Section [771.001](#), Health and Safety Code.

(b) A person commits an offense if the person makes a call to a 9-1-1 service, or requests 9-1-1 service using an electronic communications device, when there is not an emergency and knowingly or intentionally:

(1) remains silent; or

(2) makes abusive or harassing statements to a PSAP employee.

(c) A person commits an offense if the person knowingly permits an electronic communications device, including a telephone, under the person's control to be used by another person

in a manner described in Subsection (b).

(d) An offense under this section is a Class B misdemeanor. Added by Acts 1989, 71st Leg., ch. 582, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(2), eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 331 (H.B. 1972), Sec. 6, eff. September 1, 2013.

Sec. 42.062. INTERFERENCE WITH EMERGENCY REQUEST FOR ASSISTANCE. (a) An individual commits an offense if the individual knowingly prevents or interferes with another individual's ability to place an emergency call or to request assistance, including a request for assistance using an electronic communications device, in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

(b) An individual commits an offense if the individual recklessly renders unusable an electronic communications device, including a telephone, that would otherwise be used by another individual to place an emergency call or to request assistance in an emergency from a law enforcement agency, medical facility, or other agency or entity the primary purpose of which is to provide for the safety of individuals.

(c) An offense under this section is a Class A misdemeanor, except that the offense is a state jail felony if the actor has previously been convicted under this section.

(d) In this section, "emergency" means a condition or circumstance in which any individual is or is reasonably believed by the individual making a call or requesting assistance to be in fear of imminent assault or in which property is or is reasonably believed by the individual making the call or requesting assistance to be in imminent danger of damage or destruction.

Added by Acts 2001, 77th Leg., ch. 690, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 460, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1164, Sec. 1, eff. Sept. 1, 2003. Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 331 (H.B. 1972), Sec. 7, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 331 (H.B. 1972), Sec. 8, eff. September 1, 2013.

Sec. 42.07. HARASSMENT. (a) A person commits an offense if, with intent to harass, annoy, alarm, abuse, torment, or embarrass another, the person:

(1) initiates communication and in the course of the communication makes a comment, request, suggestion, or proposal that is obscene;

(2) threatens, in a manner reasonably likely to alarm the person receiving the threat, to inflict bodily injury on the person or to commit a felony against the person, a member of the person's family or household, or the person's property;

(3) conveys, in a manner reasonably likely to alarm the person receiving the report, a false report, which is known by the conveyor to be false, that another person has suffered death or serious bodily injury;

(4) causes the telephone of another to ring repeatedly or makes repeated telephone communications anonymously or in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another;

(5) makes a telephone call and intentionally fails to hang up or disengage the connection;

(6) knowingly permits a telephone under the person's control to be used by another to commit an offense under this section; or

(7) sends repeated electronic communications in a manner reasonably likely to harass, annoy, alarm, abuse, torment, embarrass, or offend another.

(b) In this section:

(1) "Electronic communication" means a transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic, or photo-optical system. The term includes:

(A) a communication initiated through the use of electronic mail, instant message, network call, a cellular or other type of telephone, a computer, a camera, text message, a social media platform or application, an Internet website, any other Internet-based communication tool, or facsimile machine; and

(B) a communication made to a pager.

(2) "Family" and "household" have the meaning assigned by Chapter 71, Family Code.

(3) "Obscene" means containing a patently offensive description of or a solicitation to commit an ultimate sex act, including sexual intercourse, masturbation, cunnilingus, fellatio, or anilingus, or a description of an excretory function.

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

(1) the actor has previously been convicted under this section; or

(2) the offense was committed under Subsection (a)(7) and:

(A) the offense was committed against a child under 18 years of age with the intent that the child:

(i) commit suicide; or

(ii) engage in conduct causing serious bodily injury to the child; or

(B) the actor has previously violated a temporary restraining order or injunction issued under Chapter 129A, Civil Practice and Remedies Code.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1983, 68th Leg., p. 2204, ch. 411, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 10, Sec. 1, eff. March 19, 1993; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 657, Sec. 1, eff. June 14, 1995; Acts 1999, 76th Leg., ch. 62, Sec. 15.02(d), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1222, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1278 (H.B. 1606), Sec. 1, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 13, eff.

September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 14, eff. September 1, 2017.

Sec. 42.072. STALKING. (a) A person commits an offense if the person, on more than one occasion and pursuant to the same scheme or course of conduct that is directed specifically at another person, knowingly engages in conduct that:

(1) constitutes an offense under Section 42.07, or that the actor knows or reasonably should know the other person will regard as threatening:

(A) bodily injury or death for the other person;

(B) bodily injury or death for a member of the other person's family or household or for an individual with whom the other person has a dating relationship; or

(C) that an offense will be committed against the other person's property;

(2) causes the other person, a member of the other person's family or household, or an individual with whom the other person has a dating relationship to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property, or to feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended; and

(3) would cause a reasonable person to:

(A) fear bodily injury or death for himself or herself;

(B) fear bodily injury or death for a member of the person's family or household or for an individual with whom the person has a dating relationship;

(C) fear that an offense will be committed against the person's property; or

(D) feel harassed, annoyed, alarmed, abused, tormented, embarrassed, or offended.

(b) 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 has previously been convicted of an offense under this section or of an offense under any of the following laws that

contains elements that are substantially similar to the elements of an offense under this section:

- (1) the laws of another state;
- (2) the laws of a federally recognized Indian tribe;
- (3) the laws of a territory of the United States; or
- (4) federal law.

(c) For purposes of this section, a trier of fact may find that different types of conduct described by Subsection (a), if engaged in on more than one occasion, constitute conduct that is engaged in pursuant to the same scheme or course of conduct.

(d) In this section:

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

(2) "Property" includes a pet, companion animal, or assistance animal, as defined by Section 121.002, Human Resources Code.

Added by Acts 1997, 75th Leg., ch. 1, Sec. 1, eff. Jan. 28, 1997.

Amended by Acts 1999, 76th Leg., ch. 62, Sec. 15.02(e), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1222, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 591 (S.B. 82), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1278 (H.B. 1606), Sec. 2, eff. September 1, 2013.

Sec. 42.075. DISCLOSURE OF CONFIDENTIAL INFORMATION REGARDING FAMILY VIOLENCE OR VICTIMS OF TRAFFICKING SHELTER CENTER.

(a) In this section, "family violence shelter center" and "victims of trafficking shelter center" have the meanings assigned by Section 552.138, Government Code.

(b) A person commits an offense if the person, with the intent to threaten the safety of any inhabitant of a family violence shelter center or victims of trafficking shelter center, discloses or publicizes the location or physical layout of the center.

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

(d) If conduct constituting an offense under this section

also constitutes an offense under Section [552.352](#), Government Code, the actor may be prosecuted under either section.

Added by Acts 2019, 86th Leg., R.S., Ch. 1152 (H.B. [3091](#)), Sec. 2, eff. September 1, 2019.

Sec. 42.08. ABUSE OF CORPSE. (a) A person commits an offense if the person, without legal authority, knowingly:

(1) disinters, disturbs, damages, dissects, in whole or in part, carries away, or treats in an offensive manner a human corpse;

(2) conceals a human corpse knowing it to be illegally disinterred;

(3) sells or buys a human corpse or in any way traffics in a human corpse;

(4) transmits or conveys, or procures to be transmitted or conveyed, a human corpse to a place outside the state; or

(5) vandalizes, damages, or treats in an offensive manner the space in which a human corpse has been interred or otherwise permanently laid to rest.

(b) An offense under this section is a state jail felony, except that an offense under Subsection (a)(5) is a Class A misdemeanor.

(c) In this section, "human corpse" includes:

(1) any portion of a human corpse;

(2) the cremated remains of a human corpse; or

(3) any portion of the cremated remains of a human corpse.

(d) 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 both sections.

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

(1) as a member or agent of a cemetery organization, removed or damaged anything that had been placed in or on any portion of the organization's cemetery in violation of the rules of the organization; or

(2) removed anything:

(A) placed in the cemetery in violation of the rules of the cemetery organization; or

(B) placed in the cemetery by or with the cemetery organization's consent but that, in the organization's judgment, had become wrecked, unsightly, or dilapidated.

(f) In this section, "cemetery" and "cemetery organization" have the meanings assigned by Section 711.001, Health and Safety Code.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Renumbered from Penal Code Sec. 42.10 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2005, 79th Leg., Ch. 1025 (H.B. 1012), Sec. 1, eff. June 18, 2005.

Acts 2017, 85th Leg., R.S., Ch. 299 (S.B. 524), Sec. 1, eff. September 1, 2017.

Sec. 42.09. CRUELTY TO LIVESTOCK ANIMALS. (a) A person commits an offense if the person intentionally or knowingly:

(1) tortures a livestock animal;

(2) fails unreasonably to provide necessary food, water, or care for a livestock animal in the person's custody;

(3) abandons unreasonably a livestock animal in the person's custody;

(4) transports or confines a livestock animal in a cruel and unusual manner;

(5) administers poison to a livestock animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;

(6) causes one livestock animal to fight with another livestock animal or with an animal as defined by Section 42.092;

(7) uses a live livestock animal as a lure in dog race training or in dog coursing on a racetrack;

(8) trips a horse; or

(9) seriously overworks a livestock animal.

(b) In this section:

(1) "Abandon" includes abandoning a livestock animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(3) "Custody" includes responsibility for the health, safety, and welfare of a livestock animal subject to the person's care and control, regardless of ownership of the livestock animal.

(4) "Depredation" has the meaning assigned by Section [71.001](#), Parks and Wildlife Code.

(5) "Livestock animal" means:

(A) cattle, sheep, swine, goats, ratites, or poultry commonly raised for human consumption;

(B) a horse, pony, mule, donkey, or hinny;

(C) native or nonnative hoofstock raised under agriculture practices; or

(D) native or nonnative fowl commonly raised under agricultural practices.

(6) "Necessary food, water, or care" includes food, water, or care provided to the extent required to maintain the livestock animal in a state of good health.

(7) "Torture" includes any act that causes unjustifiable pain or suffering.

(8) "Trip" means to use an object to cause a horse to fall or lose its balance.

(c) An offense under Subsection (a)(2), (3), (4), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section [42.092](#), or one time under this section and one time under Section [42.092](#). An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section, two times under Section [42.092](#), or one time under this section and one time under Section [42.092](#).

(d) It is a defense to prosecution under Subsection (a)(8) that the actor tripped the horse for the purpose of identifying the

ownership of the horse or giving veterinary care to the horse.

(e) It is a defense to prosecution for an offense under this section that the actor was engaged in bona fide experimentation for scientific research.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of this section.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 917, ch. 342, Sec. 12, eff. Sept. 1, 1975; Acts 1985, 69th Leg., ch. 549, Sec. 1, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 78, Sec. 1, eff. Aug. 26, 1991. Renumbered from Penal Code Sec. 42.11 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 318, Sec. 15, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1283, Sec. 1, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 54, Sec. 3, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 450, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1275, Sec. 2(116), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 886 (H.B. [2328](#)), Sec. 1, eff. September 1, 2007.

Sec. 42.091. ATTACK ON ASSISTANCE ANIMAL. (a) A person commits an offense if the person intentionally, knowingly, or recklessly attacks, injures, or kills an assistance animal.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly incites or permits an animal owned by or

otherwise in the custody of the actor to attack, injure, or kill an assistance animal and, as a result of the person's conduct, the assistance animal is attacked, injured, or killed.

(c) An offense under this section is a:

(1) Class A misdemeanor if the actor or an animal owned by or otherwise in the custody of the actor attacks an assistance animal;

(2) state jail felony if the actor or an animal owned by or otherwise in the custody of the actor injures an assistance animal; or

(3) felony of the third degree if the actor or an animal owned by or otherwise in the custody of the actor kills an assistance animal.

(d) A court shall order a defendant convicted of an offense under Subsection (a) to make restitution to the owner of the assistance animal for:

(1) related veterinary or medical bills;

(2) the cost of:

(A) replacing the assistance animal; or

(B) retraining an injured assistance animal by an organization generally recognized by agencies involved in the rehabilitation of persons with disabilities as reputable and competent to provide special equipment for or special training to an animal to help a person with a disability; and

(3) any other expense reasonably incurred as a result of the offense.

(e) In this section:

(1) "Assistance animal" has the meaning assigned by Section [121.002](#), Human Resources Code.

(2) "Custody" has the meaning assigned by Section [42.09](#).

Added by Acts 2003, 78th Leg., ch. 710, Sec. 2, eff. Sept. 1, 2003.

Sec. 42.092. CRUELTY TO NONLIVESTOCK ANIMALS. (a) In this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for

assumption of custody by another person.

(2) "Animal" means a domesticated living creature, including any stray or feral cat or dog, and a wild living creature previously captured. The term does not include an uncaptured wild living creature or a livestock animal.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Depredation" has the meaning assigned by Section [71.001](#), Parks and Wildlife Code.

(6) "Livestock animal" has the meaning assigned by Section [42.09](#).

(7) "Necessary food, water, care, or shelter" includes food, water, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(8) "Torture" includes any act that causes unjustifiable pain or suffering.

(b) A person commits an offense if the person intentionally, knowingly, or recklessly:

(1) tortures an animal or in a cruel manner kills or causes serious bodily injury to an animal;

(2) without the owner's effective consent, kills, administers poison to, or causes serious bodily injury to an animal;

(3) fails unreasonably to provide necessary food, water, care, or shelter for an animal in the person's custody;

(4) abandons unreasonably an animal in the person's custody;

(5) transports or confines an animal in a cruel manner;

(6) without the owner's effective consent, causes bodily injury to an animal;

(7) causes one animal to fight with another animal, if either animal is not a dog;

(8) uses a live animal as a lure in dog race training

or in dog coursing on a racetrack; or

(9) seriously overworks an animal.

(c) An offense under Subsection (b)(3), (4), (5), (6), or (9) is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section, two times under Section 42.09, or one time under this section and one time under Section 42.09.

(c-1) An offense under Subsection (b)(1) or (2) is a felony of the third degree, except that the offense is a felony of the second degree if the person has previously been convicted under Subsection (b)(1), (2), (7), or (8) or under Section 42.09.

(c-2) An offense under Subsection (b)(7) or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted under this section or under Section 42.09.

(d) It is a defense to prosecution under this section that:

(1) the actor had a reasonable fear of bodily injury to the actor or to another person by a dangerous wild animal as defined by Section 822.101, Health and Safety Code; or

(2) the actor was engaged in bona fide experimentation for scientific research.

(e) It is a defense to prosecution under Subsection (b)(2) or (6) that:

(1) the animal was discovered on the person's property in the act of or after injuring or killing the person's livestock animals or damaging the person's crops and that the person killed or injured the animal at the time of this discovery; or

(2) the person killed or injured the animal within the scope of the person's employment as a public servant or in furtherance of activities or operations associated with electricity transmission or distribution, electricity generation or operations associated with the generation of electricity, or natural gas delivery.

(f) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) form of conduct occurring solely for the purpose

of or in support of:

(A) fishing, hunting, or trapping; or

(B) wildlife management, wildlife or depredation control, or shooting preserve practices as regulated by state and federal law; or

(2) animal husbandry or agriculture practice involving livestock animals.

(g) This section does not create a civil cause of action for damages or enforcement of the section.

Added by Acts 2007, 80th Leg., R.S., Ch. 886 (H.B. [2328](#)), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 576 (S.B. [762](#)), Sec. 1, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 739 (S.B. [1232](#)), Sec. 3, eff. September 1, 2017.

Sec. 42.10. DOG FIGHTING. (a) A person commits an offense if the person intentionally or knowingly:

(1) causes a dog to fight with another dog;

(2) participates in the earnings of or operates a facility used for dog fighting;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for dog fighting;

(4) owns or possesses dog-fighting equipment with the intent that the equipment be used to train a dog for dog fighting or in furtherance of dog fighting;

(5) owns or trains a dog with the intent that the dog be used in an exhibition of dog fighting; or

(6) attends as a spectator an exhibition of dog fighting.

(b) In this section:

(1) "Dog fighting" means any situation in which one dog attacks or fights with another dog.

(2) "Dog-fighting equipment" has the meaning assigned by Article [18.18\(g\)](#), Code of Criminal Procedure.

(c) A conviction under Subsection (a)(2) or (3) may be had

upon the uncorroborated testimony of a party to the offense.

(d) It is a defense to prosecution under Subsection (a)(1) that the actor caused a dog to fight with another dog to protect livestock, other property, or a person from the other dog, and for no other purpose.

(e) An offense under Subsection (a)(4), (5), or (6) is a Class A misdemeanor. An offense under Subsection (a)(1), (2), or (3) is a state jail felony.

Added by Acts 1983, 68th Leg., p. 1610, ch. 305, Sec. 1, eff. Sept. 1, 1983. Renumbered from Penal Code Sec. 42.111 and amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 644 (H.B. 916), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1357 (S.B. 554), Sec. 1, eff. September 1, 2009.

Sec. 42.105. COCKFIGHTING. (a) In this section:

(1) "Bridle" means a leather device designed to fit over the head and beak of a cock to prevent the cock from injuring another cock.

(2) "Cock" means the male of any type of domestic fowl.

(3) "Cockfighting" means any situation in which one cock attacks or fights with another cock.

(4) "Gaff" means an artificial steel spur designed to attach to the leg of a cock to replace or supplement the cock's natural spur.

(5) "Slasher" means a steel weapon resembling a curved knife blade designed to attach to the foot of a cock.

(b) A person commits an offense if the person knowingly:

(1) causes a cock to fight with another cock;

(2) participates in the earnings of a cockfight;

(3) uses or permits another to use any real estate, building, room, tent, arena, or other property for cockfighting;

(4) owns or trains a cock with the intent that the cock be used in an exhibition of cockfighting;

(5) manufactures, buys, sells, barter, exchanges,

possesses, advertises, or otherwise offers a gaff, slasher, or other sharp implement designed for attachment to a cock with the intent that the implement be used in cockfighting; or

(6) attends as a spectator an exhibition of cockfighting.

(c) It is an affirmative defense to prosecution under this section that the actor's conduct:

(1) occurred solely for the purpose of or in support of breeding cocks for poultry shows in which a cock is judged by the cock's physical appearance; or

(2) was incidental to collecting bridles, gaffs, or slashers.

(d) An affirmative defense to prosecution is not available under Subsection (c) if evidence shows that the actor is also engaging in use of the cocks for cockfighting.

(e) It is a defense to prosecution for an offense under this section that:

(1) the actor was engaged in bona fide experimentation for scientific research; or

(2) the conduct engaged in by the actor is a generally accepted and otherwise lawful animal husbandry or agriculture practice involving livestock animals.

(f) It is an exception to the application of Subsection (b)(6) that the actor is 15 years of age or younger at the time of the offense.

(g) An offense under Subsection (b)(1) or (2) is a state jail felony. An offense under Subsection (b)(3), (4), or (5) is a Class A misdemeanor. An offense under Subsection (b)(6) is a Class C misdemeanor, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subdivision.

Added by Acts 2011, 82nd Leg., R.S., Ch. 952 (H.B. 1043), Sec. 1, eff. September 1, 2011.

Sec. 42.11. DESTRUCTION OF FLAG. (a) A person commits an offense if the person intentionally or knowingly damages, defaces, mutilates, or burns the flag of the United States or the State of

Texas.

(b) In this section, "flag" means an emblem, banner, or other standard or a copy of an emblem, standard, or banner that is an official or commonly recognized depiction of the flag of the United States or of this state and is capable of being flown from a staff of any character or size. The term does not include a representation of a flag on a written or printed document, a periodical, stationery, a painting or photograph, or an article of clothing or jewelry.

(c) It is an exception to the application of this section that the act that would otherwise constitute an offense is done in conformity with statutes of the United States or of this state relating to the proper disposal of damaged flags.

(d) An offense under this section is a Class A misdemeanor. Added by Acts 1989, 71st Leg., 1st C.S., ch. 27, Sec. 1, eff. Sept. 1, 1989. Renumbered from Penal Code Sec. 42.14 by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 42.12. DISCHARGE OF FIREARM IN CERTAIN MUNICIPALITIES.

(a) A person commits an offense if the person recklessly discharges a firearm inside the corporate limits of a municipality having a population of 100,000 or more.

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

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

(d) Subsection (a) does not affect the authority of a municipality to enact an ordinance which prohibits the discharge of a firearm.

Added by Acts 1995, 74th Leg., ch. 663, Sec. 1, eff. Sept. 1, 1995.

Sec. 42.13. USE OF LASER POINTERS. (a) A person commits an offense if the person knowingly directs a light from a laser pointer at a uniformed safety officer, including a peace officer, security guard, firefighter, emergency medical service worker, or other uniformed municipal, state, or federal officer.

(b) In this section, "laser pointer" means a device that

emits a visible light amplified by the stimulated emission of radiation.

(c) An offense under this section is a Class C misdemeanor. Added by Acts 2003, 78th Leg., ch. 467, Sec. 1, eff. Sept. 1, 2003.

Sec. 42.14. ILLUMINATION OF AIRCRAFT BY INTENSE LIGHT. (a) A person commits an offense if:

(1) the person intentionally directs a light from a laser pointer or other light source at an aircraft; and

(2) the light has an intensity sufficient to impair the operator's ability to control the aircraft.

(b) It is an affirmative defense to prosecution under this section that the actor was using the light to send an emergency distress signal.

(c) An offense under this section is a Class C misdemeanor unless the intensity of the light impairs the operator's ability to control the aircraft, in which event the offense is a Class A misdemeanor.

(d) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

(e) In this section, "laser pointer" has the meaning assigned by Section [42.13](#).

Added by Acts 2007, 80th Leg., R.S., Ch. 680 (H.B. [1586](#)), Sec. 1, eff. September 1, 2007.