

Alamo Community Colleges
Department of Public Safety

**HIGHLIGHTS OF THE
2007 TEXAS LEGISLATIVE SESSION**

ANIMALS

Cruelty to Animals

It is a Class A misdemeanor (or a state jail felony, following two prior offenses) to:

- (i) fail unreasonably to provide necessary food, water, care or shelter for a non-livestock animal in the person's custody;
- (ii) abandon a non-livestock animal in the person's custody unreasonably;
- (iii) transport or confine a non-livestock animal in a cruel manner;
- (iv) cause bodily injury to a non-livestock animal without the owner's consent; or
- (v) seriously overworking a nonlivestock animal.

It is a state jail felony (or a felony of the third degree following two prior offenses) to:

- (i) torture a non-livestock animal or in a cruel manner kill or cause serious bodily injury to a non-livestock animal;
- (ii) kill, poison or cause serious bodily injury to a non-livestock animal without the owner's consent;
- (iii) cause one non-livestock animal to fight with another (if either animal is not a dog); or
- (iv) use a live non-livestock animal as a lure in dog race training or in dog coursing on a racetrack.

(Penal Code §42.092)

Dogs

Attending a dog-fighting exhibition as a spectator is now a Class A misdemeanor. *(Penal Code §42.10)*

If a person knows that a dog he or she owns is dangerous or, with criminal negligence, fails to secure a dog, the person is guilty of an offense if the dog makes an unprovoked attack on another person that occurs at a location other than the owner's real property or in or on the owner's motor vehicle or boat and that causes serious bodily injury or death to the person attacked. If the victim is seriously injured, the offense is a felony of the third degree; if the victim is killed, the offense is a felony of the second degree. Upon conviction, the court may order the dog be destroyed. *(Penal Code §822.005)*

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ASSAULT & BATTERY

Defenses

Consent of the victim is not a defense to assault committed as a condition of the defendant's or victim's initiation or continued membership in a criminal street gang. (*Penal Code* §22.06)

Emergency Services Personnel

Assault on a person the defendant knows is emergency services personnel (including a firefighter or EMS personnel) while the person is providing emergency services is a felony of the third degree. (*Penal Code* §22.01)

Intoxication Assault

Intoxication assault is a felony of the second degree if the defendant causes serious bodily injury to a peace officer, a firefighter, or emergency medical services personnel while in the actual discharge of an official duty. (*Penal Code* §49.09)

Investigation

A peace officer investigating an alleged commission of

- assault,
- aggravated assault,
- sexual assault,
- aggravated sexual assault, or
- terroristic threat

must prepare a written report containing

- the names of the suspect and complainant;
- the date, time, and location of the incident;
- any visible or reported injuries; and
- a description of the incident and a statement of its disposition.

On the request of the victim, the officer's employing agency must provide the victim with information from the report at no cost, unless it is exempt from disclosure. (*Code of Criminal Procedure* Art. 2.30)

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BURGLARY

Burglary of Vehicle

A second conviction for burglary of a vehicle is punishable by a mandatory minimum 6 months imprisonment; a third or subsequent offense is a state jail felony. (*Penal Code* §30.04)

Prosecution

Prosecution for burglary of a habitation with intent to commit sexual assault, sexual abuse of aggravated kidnapping of a child under 17 may be commenced within 20 years from the victim's 18th birthday. (*Code of Criminal Procedure* Art. 12.01)

CRIMES AGAINST CHILDREN

Child Endangerment

It is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:

- (i) the person possessed, or in any way introduced into the body of any person methamphetamine in the presence of the child,
- (ii) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis indicates the presence of methamphetamine in the child's body; or
- (iii) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1 into the human body when the person was not in lawful possession of the substance. (*Penal Code* §22.041)

Indecency with a Child

Engaging in sexual conduct with a child under 17 (or causing a child under 17 to engage in sexual conduct) is punishable by life imprisonment. (*Penal Code* §12.42)

A victim of indecency with a child, or a parent or guardian of the victim, may file an application for a protective order regardless of the relationship between the applicant and the alleged offender. (*Code of Criminal Procedure* Art. 7A.01)

Prosecution for indecency of a child can be commenced at any time; there is no longer a statute of limitations. (*Code of Criminal Procedure* Art. 12.01)

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Injury to a Child

Prosecution for injury to a child may be commenced within 10 years after the child's 18th birthday. (*Code of Criminal Procedure* Art. 12.01)

Interference with Custody

Interference with child custody includes taking or retaining a child in violation of a *temporary* custody order. (*Penal Code* §25.03)

Agreement to abduct from custody includes agreeing to abduct a child in violation of a *temporary* order. (*Penal Code* §25.031)

Online Solicitation of a Minor

An employee of a public or private primary or secondary school commits an offense if the employee intentionally communicates in a sexually explicit manner with, or distributes sexually explicit material to, a person who is enrolled at the school over the Internet or by electronic mail or a commercial online service, regardless of the age of the other person. (*Penal Code* §21.12)

Online solicitation of a minor is now a state jail felony, or a felony of the second degree if the minor is younger than 14 or is an individual whom the actor believes to be younger than 14. The offense now also may be committed via text messages. (*Penal Code* §33.021)

Sexual Assault

Prosecution for sexual assault of a child or continuous sexual abuse of a young child can be commenced at any time; there is no longer a statute of limitations. (*Code of Criminal Procedure* Art. 12.01)

Sexual Performance by a Child

If the victim was under 17, prosecution for sexual performance by a child may be commenced within 20 years from the victim's 18th birthday. (*Code of Criminal Procedure* Art. 12.01)

CRIMINAL MISCHIEF

Destruction of Property

This offense is a felony of the third degree if the property damaged, destroyed or tampered with is transportation communications equipment or a transportation communications device (including a traffic control device or wiring attached to a device) when the amount of the pecuniary loss to the tangible property is less than \$100,000. (*Penal Code* §28.03)

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CRIMINAL PROCEDURE

Arrest

If a person who commits one of the following resides in the county where the offense occurred, and the offense is a Class A or B misdemeanor, an officer may issue a citation rather than taking the person before a magistrate:

- Possession of 4 ounces or less of marihuana (*Health & Safety Code* §481.121(b)(1)-(2))
- Criminal mischief involving pecuniary loss less than \$500 (*Penal Code* §28.03(b)(2))
- Graffiti involving pecuniary loss less than \$500 (*Penal Code* §28.08(b)(1))
- Theft of property with a value less than \$500 (*Penal Code* §31.03(e)(2)(a))
- Theft of services with a value less than \$500 (*Penal Code* §31.03(e)(2))
- Contraband in a correctional facility (*Penal Code* §38.114)
- Driving while license invalid (*Transportation Code* §521.457)

(*Code of Criminal Procedure* Art. 14.06)

Search & Seizure

An affidavit for a search warrant may be sealed if the judge finds a compelling state interest to do so. (*Code of Criminal Procedure* Art. 18.011)

DISORDERLY CONDUCT

Funerals

It is unlawful to picket within 1,000 feet of a facility or cemetery where a funeral is being held. (*Penal Code* §42.055)

Interference with Public Duties

It is a Class B misdemeanor to interrupt, disrupt, impede, or otherwise interfere with a person who:

- (i) has responsibility for assessing, enacting or enforcing public health, environmental, radiation or safety measures for the state or a county or municipality,
- (ii) is investigating a particular site as part of the person's responsibilities,
- (iii) is acting in accordance with policies and procedures related to the safety and security of the site, and
- (iv) is performing a duty or exercising authority imposed or granted under the *Agriculture Code, Health & Safety Code, Occupations Code* or *Water Code*, with criminal negligence. (*Penal Code* §38.15)

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DOMESTIC VIOLENCE

Victims' Rights

The Attorney General shall establish an address confidentiality program, so that victims of domestic violence may receive mail at a substitute post office box in lieu of their true residential, business, or school address. (*Code of Criminal Procedure* Art. 56.81 et seq.)

DRUGS

Manufacture

Manufacture of a Penalty Group 1 controlled substance while a child under 18 is present on the premises will result in an increase in punishment by one degree, as well as an increase in the mandatory minimum sentence and maximum fine. (*Health & Safety Code* §481.1122)

Seizure

A controlled substance seized by a law enforcement officer may be destroyed summarily by the officer. (*Health & Safety Code* §481.153)

FRAUD

Identity Theft

The statute of limitations for credit card or debit card abuse, false statement to obtain property or credit, and fraudulent use or possession of identifying information is now 7 years from the date of commission of the offense. (*Code of Criminal Procedure* Art. 12.01)

Conviction for identity theft is proper even when the victim is a child or a deceased natural person, including a stillborn infant or fetus. Identity theft is a state jail felony if the number of items obtained, possessed, transferred or used is less than 5; a felony of the third degree if the number of items obtained, possessed, transferred, or used is 5 or more but less than 10; a felony of the second degree if the number of items obtained, possessed, transferred, or used is 10 or more but less than 50; or a felony of the first degree if the number of items obtained, possessed, transferred, or used is 50 or more. If a defendant's conduct violates both this section and another law, the defendant may be prosecuted for both offenses. (*Penal Code* §32.51)

Money Laundering

The statute of limitations for money laundering is now 7 years from the date of commission of the offense. (*Code of Criminal Procedure* Art. 12.01)

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Vehicle Repair Fraud

It is unlawful to install a counterfeit airbag in a motor vehicle. Installing a counterfeit airbag or falsely claiming to have an installed an airbag is a felony of the third degree following a second or subsequent offense, or a felony of the second degree if the offense results in an individual suffering bodily injury. (*Transportation Code* §547.614)

HOMICIDE

Manslaughter

A driver's license is automatically suspended upon final conviction of manslaughter committed using a motor vehicle. (*Transportation Code* §521.341)

Intoxication manslaughter is a felony of the first degree if the defendant causes serious bodily injury to a peace officer, a firefighter, or emergency medical services personnel while in the actual discharge of an official duty. (*Penal Code* §49.09)

KIDNAPPING

Prosecution

Prosecution for aggravated kidnapping of a child under 17 with the intent to violate or abuse the victim sexually may be commenced within 20 years from the victim's 18th birthday. (*Code of Criminal Procedure* Art. 12.01)

MISSING PERSONS

Silver Alert

A local law enforcement agency may activate a "silver alert" (similar to an Amber alert) on behalf of a missing senior citizen. (*Government Code* §411.381 et seq.)

OBSTRUCTION OF JUSTICE

Tampering with Evidence

This offense is a felony of the second degree if the evidence altered, destroyed or concealed is a human corpse. (*Penal Code* §37.09)

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RULES OF THE ROAD

Accidents

Failure to stop after an accident resulting in death or serious bodily injury is now a felony of the third degree; failure to stop following an accident resulting in other injury is now punishable by a fine up to \$5,000 and/or 1 year imprisonment. (*Transportation Code* §550.021)

Equipment

A motor vehicle may be equipped with video receiving equipment, including a television, a digital video disc player, a videocassette player, or similar equipment, only if the equipment is located so that the video display is not visible from the operator's seat *unless the vehicle's transmission is in park or the vehicle's parking brake is applied.* (*Transportation Code* §547.611)

The restriction on tinted windows does not apply to commercial motor vehicles.
(*Transportation Code* §547.613)

Parking

A motorist with a license plate issued under §504.202 may park in a disabled person parking space. (*Transportation Code* §681.011)

Saddlemounts

A drive-away saddlemount vehicle transporter combination may be up to 72 feet in length.
(*Transportation Code* §622.902)

Speeding

A person charged with speeding at a speed of 95 mph or more may not elect to take a driver safety course to dismiss the ticket. (*Transportation Code* §45.0511)

A municipality may not implement or operate an automated traffic control system for the purpose of enforcing compliance with posted speed limits. (*Transportation Code* §542.2035)

Student Drivers

A person with a driver's license who occupies a seat in a motor vehicle operated by the holder of an instruction permit commits an offense if that person:

- (i) sleeps,
- (ii) is intoxicated, or
- (iii) is engaged in any activity that prevents him or her from observing and responding to the actions of the operator.

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It is a defense to prosecution under this section that another licensed driver in the vehicle was able to observe and respond to the actions of the operator. (*Transportation Code* §521.222)

Traffic Signals

A municipality that employs a photographic traffic monitoring system to enforce compliance with the instructions of traffic-control signals must install signs along each roadway that leads to an intersection at which a photographic traffic monitoring system is in active use, within 100 feet of the intersection, clearly indicating the presence of a photographic monitoring system that records violations and that may result in the issuance of a notice of violation and the imposition of a monetary penalty. A municipality that does not comply with this requirement may not impose a civil or administrative penalty for failure to comply with the traffic control signal, although a peace officer may still arrest or issue a citation for the offense. (*Transportation Code* §544.012)

Transportation of Loose Materials

“Loose materials” includes refuse, *i.e.* trash, rubbish, garbage, or any other discarded material. (*Transportation Code* §725.001)

SEXUAL OFFENSES

Voyeurism

It is unlawful to photograph, record, broadcast or transmit a visual image of another at a location that is *not* a bathroom or private dressing room without the consent of that person and with intent to arouse or gratify the sexual desire of any person. It is unlawful to photograph, record, broadcast or transmit a visual image of another in a bathroom or private dressing room without the consent of that person and with intent to arouse or gratify the sexual desire of any person *or* to invade that person’s privacy. (*Penal Code* §21.15)

THEFT

Organized Retail Theft

A person commits organized retail theft by intentionally conducting, promoting or facilitating facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of a total value of not less than \$1,500 of

- (i) stolen retail merchandise, or
- (ii) merchandise explicitly represented to the person as being stolen retail merchandise.

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The offense is a state jail felony if the total value of the merchandise involved in the activity is \$1,500 or more but less than \$20,000; a felony of the third degree if the value is \$20,000 or more but less than \$100,000; a felony of the second degree if the value is \$100,000 or more but less than \$200,000; or a felony of the first degree if the value is \$200,000 or more. Punishment is increased to the next highest level if the person organized, supervised, financed or managed one or more other persons engaged in the offense, or if the person intentionally, knowingly, or recklessly caused an alarm to sound or otherwise become activated during the commission of the offense with intent to cause a distraction. (*Penal Code* §31.16)

Organized retail theft may be prosecuted in any county in which an underlying theft could have been prosecuted as a separate offense. (*Code of Criminal Procedure* Art. 13.08)

Wire

Theft of insulated or noninsulated wire or cable that is at least 50% aluminum, bronze or copper worth less than \$20,000 is a state jail felony. (*Penal Code* §31.03)

USE OF FORCE

Self-Defense

A person's belief that use of force (including deadly force) is immediately necessary for self-defense is presumed reasonable if the person:

- (i) knew or had reason to believe that the person against whom the force was used:
 - (a) unlawfully and with force entered, or was attempting to enter unlawfully and with force, the person's occupied habitation, vehicle, or place of business or employment;
 - (b) unlawfully and with force removed, or was attempting to remove unlawfully and with force, the person from his or her habitation, vehicle, or place of business or employment; or
 - (c) was committing or attempting to commit aggravated kidnapping, murder, sexual assault, aggravated sexual assault, robbery or aggravated robbery;
- (ii) did not provoke the person against whom the force was used; and
- (iii) was not otherwise engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic at the time the force was used.

A person who has a right to be present at the location where the force is used, who has not provoked the person against whom the force is used, and who is not engaged in criminal activity at the time the force is used is not required to retreat before using force. (*Penal Code* §§9.31, 9.32)

WEAPONS

Schools

A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally exhibits, uses, or threatens to

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exhibit or use a firearm in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school or on a school bus. (*Education Code* §37.125)

Unlawful Carrying

Restrictions on carrying firearms do not apply to licensed assistant district attorneys, assistant criminal district attorneys, assistant county attorneys or municipal attorneys, or licensed bailiffs escorting a judicial officer. Nor do they apply to a commissioned security officer acting as a personal security officer and carrying his or her security officer commission and personal protection officer authorization. A student in a law enforcement class may carry an unloaded firearm to and from class, if such activity is required as part of the class. (*Penal Code* §46.15)

A licensed judicial officer or licensed bailiff escorting a judicial officer may carry a firearm onto premises where firearms are typically banned. A licensed district attorney, assistant district attorney, criminal district attorney, assistant criminal district attorney, county attorney or assistant county attorney may do so as well. (*Penal Code* §46.035)

It is unlawful to intentionally, knowingly or recklessly carry on or about one's person a handgun, illegal knife or club if the person is not:

- (i) on the person's own premises or premises under his or her control, or
- (ii) inside of or directly en route to a motor vehicle that is owned by the person or under his or her control.

It is also unlawful to intentionally, knowingly or recklessly carry on or about one's person a handgun, illegal knife or club in a motor vehicle that is owned by the person or under his or her control when:

- (i) the handgun is plainly visible, or
- (ii) the person is
 - o engaged in criminal activity (other than a Class C misdemeanor that is a traffic violation),
 - o prohibited by law from possessing a firearm, or
 - o a member of a criminal street gang.

(*Penal Code* §46.02)