

CHAPTER 3. MULTIPLE PROSECUTIONS

SEC. 3.03. SENTENCES FOR OFFENSES ARISING OUT OF SAME CRIMINAL EPISODE

(a) When the accused is found guilty of more than one offense arising out of the same criminal episode prosecuted in a single criminal action, a sentence for each offense for which the accused has been found guilty shall be pronounced. Except as otherwise provided by this section [~~Subsections (b) and (c)~~], the sentences shall run concurrently.

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.02, 21.11, 22.011, 22.021, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(4) an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure;

(5) an offense:

(A) under Section 20A.02, 20A.03, or 43.05, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which

the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(6) an offense:

(A) under Section 22.04(a)(1) or (2) or Section 22.04(a-1)(1) or (2) that is punishable as a felony of the first degree, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) and punishable as described by that paragraph, regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section; or

(7) any combination of offenses listed in Subdivisions (1)-(6).

(b-1) Subsection (b)(4) does not apply to a defendant whose case was transferred to the court under Section 54.02, Family Code.

(c) If in a single criminal action the accused is found guilty of more than one offense under Section 22.02 that arises out of the same criminal episode, the sentences run consecutively if each sentence is for a conviction of an assault punishable as a felony of the first degree under Section 22.02(b)(4).

(d)(1) This subsection applies only to a single criminal action in which the accused is found guilty of:

(A) an offense under Section 20.05(a)(2) or an offense under Section 20.06 involving conduct constituting an offense under Section 20.05(a)(2); and

(B) an offense punishable under Section 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or 38.04(b-1) that arises out of the same criminal episode as the offense described by Paragraph (A).

(2) The sentence for an offense described by Subdivision (1)(A) may run consecutively with each sentence for an offense described by Subdivision (1)(B).

(3) If the accused is found guilty of more than one offense described by Subdivision (1)(A), the sentences for those offenses must run concurrently with each other.

(e) Except as otherwise provided by this subsection, if in a single criminal action the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run consecutively if each sentence is for a conviction of an offense for which a plea agreement was reached in a case in which the accused was charged with an offense described by Subsection (d)(1)(A) and an offense described by Subsection (d)(1)(B). If the accused is found guilty of more than one offense described by Subsection (d)(1)(A), the sentences for those offenses must run concurrently with each other.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §1). Section 12 of SB 4 provides: "The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

CHAPTER 12. PUNISHMENTS

Subchapter D. Exceptional Sentences

SEC. 12.50. PENALTY IF OFFENSE COMMITTED IN DISASTER AREA OR EVACUATED AREA

(a) Subject to ~~Subsections~~ Subsection (c) and (d), the punishment for an offense described by Subsection (b) is increased to the punishment prescribed for the next higher category of offense if it is shown on the trial of the offense that the offense was committed in an area that was, at the time of the offense:

- (1) subject to a declaration of a state of disaster made by:
 - (A) the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.);
 - (B) the governor under Section 418.014, Government Code; or
 - (C) the presiding officer of the governing body of a political subdivision under Section 418.108, Government Code; or
- (2) subject to an emergency evacuation order.

(b) The increase in punishment authorized by this section applies only to an offense under:

- (1) Section 20.05;
- (2) Section 20.06;
- (3) Section 20.07;
- (4) Section 22.01;
- (5) ~~(2)~~ Section 28.02;
- (6) ~~(3)~~ Section 29.02;
- (7) ~~(4)~~ Section 30.02;
- (8) ~~(5)~~ Section 30.03;
- (9) ~~(6)~~ Section 30.04;
- (10) ~~(7)~~ Section 30.05; and
- (11) ~~(8)~~ Section 31.03.

(c) If an offense listed under Subsection (b) ~~(b)(1), (5), (6), (7), or (8)~~ is punishable as a Class A misdemeanor, the minimum term of confinement for the offense is increased to 180 days. Except as provided by Subsection (d), if (H) an offense listed under Subsection (b) (b)(2), (4), or (8) is punishable as a felony of the first degree, the punishment for that offense may not be increased under this section.

(d) Except as otherwise provided by this subsection, the minimum term of imprisonment for an offense listed under Subsection (b)(1), (2), or (3) for which punishment is increased under this section is 10 years. If an offense listed under Subsection (b)(1) or (2) is punishable as a felony of the first degree, the minimum term of imprisonment is increased to 15 years unless another provision of law applicable to the offense provides for a minimum term of imprisonment of 15 years or more.

(e) For purposes of this section, “emergency evacuation order” means an official statement issued by the governing body of this state or a political subdivision of this state to recommend or require the evacuation of all or part of the population of an area stricken or threatened with a disaster.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §2). See effective note for SB 4 following §3.03.

CHAPTER 20. KIDNAPPING, UNLAWFUL RESTRAINT, AND SMUGGLING OF PERSONS

SEC. 20.05. SMUGGLING OF PERSONS

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

- (1) uses a motor vehicle, aircraft, watercraft, or other means of conveyance to transport an individual with the intent to:

- (A) conceal the individual from a peace officer or special investigator; or
- (B) flee from a person the actor knows is a peace officer or special investigator attempting to lawfully arrest or detain the actor;
- (2) encourages or induces a person to enter or remain in this country in violation of federal law by concealing, harboring, or shielding that person from detection; or
- (3) assists, guides, or directs two or more individuals to enter or remain on agricultural land without the effective consent of the owner.

(b) Subject to Subsections (b-1) and (b-2), an [Am] offense under this section is a felony of the third degree with a term of imprisonment of 10 years, except that the offense is:

(1) a felony of the second degree with a minimum term of imprisonment of 10 years if:

- (A) the actor commits the offense in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death;
- (B) the smuggled individual is a child younger than 18 years of age at the time of the offense;
- (C) the offense was committed with the intent to obtain a pecuniary benefit;
- (D) during the commission of the offense the actor, another party to the offense, or an individual assisted, guided, or directed by the actor knowingly possessed a firearm; or
- (E) the actor commits the offense under Subsection (a)(1)(B); or

(2) a felony of the first degree with a minimum term of imprisonment of 10 years if:

- (A) it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or
- (B) the smuggled individual suffered serious bodily injury or death.

(b-1) If at the punishment stage of the trial or at the time of entering a plea agreement for an offense under this section punishable as a felony of the third degree, the attorney representing the state in the prosecution of the offense certifies to the court in writing that the actor has provided significant cooperation to the state or law enforcement, and describes the manner of cooperation, the minimum term of imprisonment is five years. The certification is confidential and shall be sealed by the court, except that the certification may be accessed by the office of the attorney representing the state, the attorney representing the defendant, and the court. For purposes of this subsection, “significant cooperation” includes:

(1) testifying in a trial on behalf of the state against other parties to the offense;

- (2) providing relevant information regarding the case and other parties to the offense;
- (3) providing information that furthers the investigation of the charged offense and any other parties involved; or
- (4) providing information that aids law enforcement.

(b-2) At the punishment stage of a trial of an offense under this section, other than an offense punishable under Subsection (b)(1)(A), (C), (D), or (E) or (b)(2), the actor may raise the issue as to whether the actor is related to the smuggled individual in the third degree of consanguinity or, at the time of the offense, in the third degree of affinity. If the actor proves the issue in the affirmative by a preponderance of the evidence, the offense is a felony of the third degree with a minimum term of imprisonment of five years.

(c) It is an affirmative defense to prosecution of an offense under this section, other than an offense punishable under Subsection (b)(1)(A) or (b)(2), that the actor is related to the smuggled individual within the second degree of consanguinity or, at the time of the offense, within the second degree of affinity.

(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 under both sections.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §3). See effective note for SB 4 following §3.03.

SEC. 20.06. CONTINUOUS SMUGGLING OF PERSONS

(a) A person commits an offense if, during a period that is 10 or more days in duration, the person engages two or more times in conduct that constitutes an offense under Section 20.05.

(b) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific conduct engaged in by the defendant constituted an offense under Section 20.05 or on which exact date the defendant engaged in that conduct. The jury must agree unanimously that the defendant, during a period that is 10 or more days in duration, engaged two or more times in conduct that constitutes an offense under Section 20.05.

(c) If the victim of an offense under Subsection (a) is the same victim as a victim of an offense under Section 20.05, a defendant may not be convicted of the offense under Section 20.05 in the same criminal action as the offense under Subsection (a), unless the offense under Section 20.05:

- (1) is charged in the alternative;
- (2) occurred outside the period in which the offense alleged under Subsection (a) was committed; or
- (3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (a).

(d) A defendant may not be charged with more than one count under Subsection (a) if all of the conduct that constitutes an offense under Section 20.05 is alleged to have been committed against the same victim.

(e) Except as provided by Subsections (f) and (g), an offense under this section is a felony of the second degree with a minimum term of imprisonment of 10 years.

(f) An offense under this section is a felony of the first degree with a minimum term of imprisonment of 10 years if:

- (1) the conduct constituting an offense under Section 20.05 is conducted in a manner that creates a substantial likelihood that the smuggled individual will suffer serious bodily injury or death; or
- (2) the smuggled individual is a child younger than 18 years of age at the time of the offense.

(g) An offense under this section is a felony of the first degree, punishable by imprisonment in the Texas Department of Criminal Justice for life or for any term of not more than 99 years or less than 25 years, if:

- (1) it is shown on the trial of the offense that, as a direct result of the commission of the offense, the smuggled individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or
- (2) the smuggled individual suffered serious bodily injury or death.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §4). See effective note for SB 4 following §3.03.

SEC. 20.07. OPERATION OF STASH HOUSE

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

- (1) uses or permits another to use any real estate, building, room, tent, vehicle, boat, or other property owned by the person or under the person's control to commit an offense or to facilitate the commission of an offense under Section 20.05, 20.06, 20A.02, 20A.03, 43.04, or 43.05; or
- (2) rents or leases any property to another, intending that the property be used as described by Subdivision (1).

(b) An offense under this section is a felony of the third degree with a minimum term of imprisonment of five years, except that the offense is a felony of the second degree with a minimum term of imprisonment of five years if:

(1) the offense is committed under Subsection (a)(1) and the property that is the subject of the offense is used to commit or facilitate the commission of an offense under Section 20.06, 20A.03, or 43.05; or

(2) it is shown on the trial of the offense that as a direct result of the commission of the offense:

(A) an individual became a victim of sexual assault, as defined by Section 22.011, or aggravated sexual assault, as defined by Section 22.021; or

(B) an individual suffered serious bodily injury or death [Class A misdemeanor].

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

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §5). See effective note for SB 4 following §3.03.

CHAPTER 22. ASSAULTIVE OFFENSES

SEC. 22.01. ASSAULT

(a) A person commits an offense if the person:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including the person's spouse;
- (2) intentionally or knowingly threatens another with imminent bodily injury, including the person's spouse; or
- (3) intentionally or knowingly causes physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor, except that the offense is a felony of the third degree if the offense is committed against:

- (1) a person the actor knows is a public servant while the pub-

lic servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant;

(2) a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted of an offense that was committed:

(i) against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(ii) under:

(a) this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11;

(b) Section 25.07, if the applicable violation was based on the commission of family violence as described by Subsection (a)(1) of that section; or

(c) Section 25.072, if any of the applicable violations were based on the commission of family violence as described by Section 25.07(a)(1); or

(B) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth;

(3) a person who contracts with government to perform a service in a facility described by Section 1.07(a)(14), Penal Code, or Section 51.02(13) or (14), Family Code, or an employee of that person:

(A) while the person or employee is engaged in performing a service within the scope of the contract, if the actor knows the person or employee is authorized by government to provide the service; or

(B) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract;

(4) a person the actor knows is a security officer while the officer is performing a duty as a security officer;

(5) a person the actor knows is emergency services personnel while the person is providing emergency services;

(6) a person the actor knows is a process server while the person is performing a duty as a process server;

(7) a pregnant individual to force the individual to have an abortion;

(8) a person the actor knows is pregnant at the time of the offense; or

(9) a person the actor knows is hospital personnel while the person is located on hospital property, including all land and buildings owned or leased by the hospital.

(b-1) Notwithstanding Subsections (b) and (c), an offense under Subsection (a) is a felony of the third degree if the offense is committed:

(1) by an actor who is committed to a civil commitment facility; and

(2) against:

(A) a person the actor knows is an officer or employee of the Texas Civil Commitment Office:

(i) while the officer or employee is lawfully discharging an official duty; or

(ii) in retaliation for or on account of an exercise of official power or performance of an official duty by the officer or employee; or

(B) a person the actor knows is contracting with the state to perform a service in a civil commitment facility or an employee of that person:

(i) while the person or employee is engaged in performing a service within the scope of the contract; or

(ii) in retaliation for or on account of the person's or employee's performance of a service within the scope of the contract.

(b-2) Notwithstanding Subsection (b)(1), an offense under Subsection (a)(1) is a felony of the second degree if the offense is committed against a person the actor knows is a peace officer or judge while the officer or judge is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty as a peace officer or judge.

(b-3) Notwithstanding Subsection (b)(2), an offense under Subsection (a)(1) is a felony of the second degree if:

(1) the offense is committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code;

(2) it is shown on the trial of the offense that the defendant has been previously convicted of an offense that was committed:

(A) against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code; and

(B) under:

(i) this chapter, Chapter 19, or Section 20.03, 20.04, 21.11, or 25.11;

(ii) Section 25.07, if the applicable violation was based on the commission of family violence as described by Subsection (a)(1) of that section; or

(iii) Section 25.072, if any of the applicable violations were based on the commission of family violence as described by Section 25.07(a)(1); and

(3) the offense is committed by intentionally, knowingly, or recklessly impeding the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth.

(b-4) Notwithstanding Subsection (b), an offense under Subsection (a)(1) is a felony of the third degree if it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

(c) An offense under Subsection (a)(2) or (3) is a Class C misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the offense is committed under Subsection (a)(3) against an elderly individual or disabled individual, as those terms are defined by Section 22.04; or

(2) a Class B misdemeanor if the offense is committed by a person who is not a sports participant against a person the actor knows is a sports participant either:

(A) while the participant is performing duties or responsibilities in the participant's capacity as a sports participant; or

(B) in retaliation for or on account of the participant's performance of a duty or responsibility within the participant's capacity as a sports participant; or

(3) a Class A misdemeanor if the offense is committed against a pregnant individual to force the individual to have an abortion.

(d) For purposes of Subsection (b), the actor is presumed to have known the person assaulted was a public servant, a security officer, or emergency services personnel if the person was wearing a distinctive uniform or badge indicating the person's employment

as a public servant or status as a security officer or emergency services personnel.

(e) In this section:

(1) "Emergency services personnel" includes firefighters, emergency medical services personnel as defined by Section 773.003, Health and Safety Code, emergency room personnel, and other individuals who, in the course and scope of employment or as a volunteer, provide services for the benefit of the general public during emergency situations.

(1-a) "Hospital personnel" includes nurses, physicians, physician assistants, maintenance or janitorial staff, receptionists, and other individuals who are employed by or work in a facility that is licensed as a general hospital or special hospital, as those terms are defined by Section 241.003, Health and Safety Code, including a hospital maintained or operated by the state.

(2) "Process server" has the meaning assigned by Section 156.001, Government Code.

(3) "Security officer" means a commissioned security officer as defined by Section 1702.002, Occupations Code, or a non-commissioned security officer registered under Section 1702.221, Occupations Code.

(4) "Sports participant" means a person who participates in any official capacity with respect to an interscholastic, intercollegiate, or other organized amateur or professional athletic competition and includes an athlete, referee, umpire, linesman, coach, instructor, administrator, or staff member.

(f) For the purposes of Subsections (b)(2)(A) and (b-3)(2):

(1) a defendant has been previously convicted of an offense listed in those subsections committed against a person whose relationship to or association with the defendant is described by Section 71.0021(b), 71.003, or 71.005, Family Code, if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision; and

(2) a conviction under the laws of another state for an offense containing elements that are substantially similar to the elements of an offense listed in those subsections is a conviction of the offense listed.

(g) 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.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §6). See effective note for SB 4 following §3.03.

CHAPTER 28. ARSON, CRIMINAL MISCHIEF, AND OTHER PROPERTY DAMAGE OR DESTRUCTION

SEC. 28.10. ENHANCED PENALTY FOR CERTAIN MISDEMEANORS OR STATE JAIL FELONIES

The punishment for an offense under this chapter that is punishable as a misdemeanor or a state jail felony is increased to the punishment for a felony of the third degree if it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

Enacted effective Feb. 6, 2024 (SB 4, 3rd C.S., §7). See effective note for SB 4 following §3.03.

CHAPTER 30. BURGLARY AND CRIMINAL TRESPASS

SEC. 30.02. BURGLARY

(a) A person commits an offense if, without the effective consent of the owner, the person:

(1) enters a habitation, or a building (or any portion of a building) not then open to the public, with intent to commit a felony, theft, or an assault; or

(2) remains concealed, with intent to commit a felony, theft, or an assault, in a building or habitation; or

(3) enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) Except as provided in Subsection (c-1), (c-2), or (d), an offense under this section is a:

(1) state jail felony if committed in a building other than a habitation; or

(2) felony of the second degree if committed in a habitation.

(c-1) An offense under this section is a felony of the third degree if:

(1) the premises are a commercial building in which a controlled substance is generally stored, including a pharmacy, clinic, hospital, nursing facility, or warehouse; and

(2) the person entered or remained concealed in that building with intent to commit a theft of a controlled substance.

(c-2) An offense under this section is a felony of the third degree if:

(1) the premises are a building other than a habitation; and

(2) it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

(d) An offense under this section is a felony of the first degree if:

(1) the premises are a habitation; and

(2) any party to the offense entered the habitation with intent to commit a felony other than felony theft or committed or attempted to commit a felony other than felony theft.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §8). See effective note for SB 4 following §3.03.

SEC. 30.04. BURGLARY OF VEHICLES

(a) A person commits an offense if, without the effective consent of the owner, he breaks into or enters a vehicle or any part of a vehicle with intent to commit any felony or theft.

(b) For purposes of this section, "enter" means to intrude:

(1) any part of the body; or

(2) any physical object connected with the body.

(c) For purposes of this section, a container or trailer carried on a rail car is a part of the rail car.

(d) An offense under this section is a Class A misdemeanor, except that:

(1) the offense is a Class A misdemeanor with a minimum term of confinement of six months if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section;

(2) the offense is a state jail felony if:

(A) it is shown on the trial of the offense that the defendant has been previously convicted two or more times of an offense under this section; or

(B) the vehicle or part of the vehicle broken into or entered is a rail car; and

(3) the offense is a felony of the third degree if:

(A) the vehicle broken into or entered is owned or operated by a wholesale distributor of prescription drugs^[5] and ~~(B)~~ the actor breaks into or enters that vehicle with the intent to commit theft of a controlled substance; or
(B) it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

(d-1) For the purposes of Subsection (d), a defendant has been previously convicted under this section if the defendant was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the defendant was subsequently discharged from community supervision.

(e) It is a defense to prosecution under this section that the actor entered a rail car or any part of a rail car and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §9). See effective note for SB 4 following §3.03.

SEC. 30.05. CRIMINAL TRESPASS

(a) A person commits an offense if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, a general residential operation operating as a residential treatment center, or an aircraft or other vehicle, without effective consent and the person:

- (1) had notice that the entry was forbidden; or
- (2) received notice to depart but failed to do so.

(b) For purposes of this section:

- (1) "Entry" means the intrusion of the entire body.
- (2) "Notice" means:
 - (A) oral or written communication by the owner or someone with apparent authority to act for the owner;
 - (B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;
 - (C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden;
 - (D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:
 - (i) vertical lines of not less than eight inches in length and not less than one inch in width;
 - (ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and
 - (iii) placed at locations that are readily visible to any person approaching the property and no more than:
 - (a) 100 feet apart on forest land; or
 - (b) 1,000 feet apart on land other than forest land; or
 - (E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.
- (3) "Shelter center" has the meaning assigned by Section 51.002, Human Resources Code.
- (4) "Forest land" means land on which the trees are potentially valuable for timber products.
- (5) "Agricultural land" has the meaning assigned by Section 75.001, Civil Practice and Remedies Code.
- (6) "Superfund site" means a facility that:
 - (A) is on the National Priorities List established under Section 105 of the federal Comprehensive Environmental Re-

sponse, Compensation, and Liability Act of 1980 (42 U.S.C. Section 9605); or

(B) is listed on the state registry established under Section 361.181, Health and Safety Code.

(7) "Critical infrastructure facility" means one of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders:

- (A) a chemical manufacturing facility;
- (B) a refinery;
- (C) an electrical power generating facility, substation, switching station, electrical control center, or electrical transmission or distribution facility;
- (D) a water intake structure, water treatment facility, wastewater treatment plant, or pump station;
- (E) a natural gas transmission compressor station;
- (F) a liquid natural gas terminal or storage facility;
- (G) a telecommunications central switching office;
- (H) a port, railroad switching yard, trucking terminal, or other freight transportation facility;
- (I) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas; or
- (J) a transmission facility used by a federally licensed radio or television station.

(8) "Protected freshwater area" has the meaning assigned by Section 90.001, Parks and Wildlife Code.

(9) "Recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

- (A) has firearm proficiency requirements for peace officers; and
- (B) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

(10) "Recreational vehicle park" has the meaning assigned by Section 13.087, Water Code.

(11) "Residential land" means real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

(12) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(13) "General residential operation" has the meaning assigned by Section 42.002, Human Resources Code.

(c) A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:

- (1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";
- (2) includes the language described by Subdivision (1) in both English and Spanish;
- (3) appears in contrasting colors with block letters at least one inch in height; and
- (4) is displayed in a conspicuous manner clearly visible to the public.

(d) Subject to Subsection (d-3), an offense under this section is:

- (1) a Class B misdemeanor, except as provided by Subdivisions (2), ~~and~~ (3), ~~and~~ (4);
- (2) a Class C misdemeanor, except as provided by Subdivisions ~~Subdivision~~ (3) ~~and~~ (4), if the offense is committed:
 - (A) on agricultural land and within 100 feet of the boundary of the land; or
 - (B) on residential land and within 100 feet of a protected freshwater area; ~~and~~
- (3) a Class A misdemeanor, except as provided by Subdivision (4), if:

- (A) the offense is committed:
- (i) in a habitation or a shelter center;
 - (ii) on a Superfund site; or
 - (iii) on or in a critical infrastructure facility;
- (B) the offense is committed on or in property of an institution of higher education and it is shown on the trial of the offense that the person has previously been convicted of:
- (i) an offense under this section relating to entering or remaining on or in property of an institution of higher education; or
 - (ii) an offense under Section 51.204(b)(1), Education Code, relating to trespassing on the grounds of an institution of higher education;
- (C) the person carries a deadly weapon during the commission of the offense; or
- (D) the offense is committed on the property of or within a general residential operation operating as a residential treatment center; and
- (4) a felony of the third degree if it is shown on the trial of the offense that the defendant committed the offense in the course of committing an offense under Section 20.05(a)(2).
- (d-1) For the purposes of Subsection (d)(3)(B), a person has previously been convicted of an offense described by that paragraph if the person was adjudged guilty of the offense or entered a plea of guilty or nolo contendere in return for a grant of deferred adjudication community supervision, regardless of whether the sentence for the offense was ever imposed or whether the sentence was probated and the person was subsequently discharged from deferred adjudication community supervision.
- (d-2) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by Subsection (d)(3)(B), the defendant may raise the issue as to whether, at the time of the instant offense or the previous offense, the defendant was engaging in speech or expressive conduct protected by the First Amendment to the United States Constitution or Section 8, Article I, Texas Constitution. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(B) does not apply.
- (d-3) An offense under this section is a Class C misdemeanor punishable by a fine not to exceed \$200 if the person enters the property, land, or building with a firearm or other weapon and the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden, except that the offense is a Class A misdemeanor if it is shown on the trial of the offense that, after entering the property, land, or building with the firearm or other weapon, the actor:
- (1) personally received from the owner of the property or another person with apparent authority to act for the owner notice that entry with a firearm or other weapon was forbidden, as given through:
 - (A) notice under Subsection (b)(2)(A), including oral or written communication; or
 - (B) if the actor is unable to reasonably understand the notice described by Paragraph (A), other personal notice that is reasonable under the circumstances; and
 - (2) subsequently failed to depart.
- (e) It is a defense to prosecution under this section that the actor at the time of the offense was:
- (1) a firefighter or emergency medical services personnel, as defined by Section 773.003, Health and Safety Code, acting in the lawful discharge of an official duty under exigent circumstances;
- (2) a person who was:
- (A) an employee or agent of:
 - (i) an electric utility, as defined by Section 31.002, Utilities Code;
 - (ii) a telecommunications provider, as defined by Section 51.002, Utilities Code;
 - (iii) a video service provider or cable service provider, as defined by Section 66.002, Utilities Code;
 - (iv) a gas utility, as defined by Section 101.003, Utilities Code, which for the purposes of this subsection includes a municipally owned utility as defined by that section;
 - (v) a gas utility, as defined by Section 121.001, Utilities Code;
 - (vi) a pipeline used for the transportation or sale of oil, gas, or related products; or
 - (vii) an electric cooperative or municipally owned utility, as defined by Section 11.003, Utilities Code; and
 - (B) performing a duty within the scope of that employment or agency; or
- (3) a person who was:
- (A) employed by or acting as agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property; and
 - (B) performing a duty within the scope of that employment or agency.
- (f) It is a defense to prosecution under this section that:
- (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun was forbidden; and
 - (2) the person was carrying:
 - (A) a license issued under Subchapter H, Chapter 411, Government Code, to carry a handgun; and
 - (B) a handgun:
 - (i) in a concealed manner; or
 - (ii) in a holster.
- (f-1) It is a defense to prosecution under this section that:
- (1) the basis on which entry on the property was forbidden is that entry with a firearm or firearm ammunition was forbidden;
 - (2) the actor is:
 - (A) an owner of an apartment in a condominium regime governed by Chapter 81, Property Code;
 - (B) an owner of a condominium unit governed by Chapter 82, Property Code;
 - (C) a tenant or guest of an owner described by Paragraph (A) or (B); or
 - (D) a guest of a tenant of an owner described by Paragraph (A) or (B);
 - (3) the actor:
 - (A) carries or stores a firearm or firearm ammunition in the condominium apartment or unit owner's apartment or unit;
 - (B) carries a firearm or firearm ammunition directly en route to or from the condominium apartment or unit owner's apartment or unit;
 - (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for residents or guests of the condominium property; or
 - (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for residents or guests of the condominium property; and
 - (4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.

- (f-2) It is a defense to prosecution under this section that:
- (1) the basis on which entry on a leased premises governed by Chapter 92, Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;
 - (2) the actor is a tenant of the leased premises or the tenant's guest;
 - (3) the actor:
 - (A) carries or stores a firearm or firearm ammunition in the tenant's rental unit;
 - (B) carries a firearm or firearm ammunition directly en route to or from the tenant's rental unit;
 - (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; or
 - (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or guests by the landlord of the leased premises; and
 - (4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.
- (f-3) It is a defense to prosecution under this section that:
- (1) the basis on which entry on a leased premises governed by Chapter 94, Property Code, was forbidden is that entry with a firearm or firearm ammunition was forbidden;
 - (2) the actor is a tenant of a manufactured home lot or the tenant's guest;
 - (3) the actor:
 - (A) carries or stores a firearm or firearm ammunition in the tenant's manufactured home;
 - (B) carries a firearm or firearm ammunition directly en route to or from the tenant's manufactured home;
 - (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; or
 - (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located in a parking area provided for tenants or tenants' guests by the landlord of the leased premises; and
 - (4) the actor is not otherwise prohibited by law from possessing a firearm or firearm ammunition.
- (f-4) It is a defense to prosecution under this section that:
- (1) the conduct occurred on hotel property, and the basis on which entry on that property was forbidden is that entry with a firearm or firearm ammunition was forbidden;
 - (2) the actor is a guest of a hotel, as defined by Section 2155.101, Occupations Code; and
 - (3) the actor:
 - (A) carries or stores a firearm or firearm ammunition in the actor's hotel room;
 - (B) carries a firearm or firearm ammunition directly en route to or from the hotel or the actor's hotel room;
 - (C) carries a firearm or firearm ammunition directly en route to or from the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests; or
 - (D) carries or stores a firearm or firearm ammunition in the actor's vehicle located on the hotel property, including a vehicle in a parking area provided for hotel guests.
- (g) It is a defense to prosecution under this section that the actor entered a railroad switching yard or any part of a railroad switching yard and was at that time an employee or a representative of employees exercising a right under the Railway Labor Act (45 U.S.C. Section 151 et seq.).
- (h) At the punishment stage of a trial in which the attorney representing the state seeks the increase in punishment provided by

Subsection (d)(3)(A)(iii), the defendant may raise the issue as to whether the defendant entered or remained on or in a critical infrastructure facility as part of a peaceful or lawful assembly, including an attempt to exercise rights guaranteed by state or federal labor laws. If the defendant proves the issue in the affirmative by a preponderance of the evidence, the increase in punishment provided by Subsection (d)(3)(A)(iii) does not apply.

- (i) This section does not apply if:
- (1) the basis on which entry on the property or land or in the building was forbidden is that entry with a handgun or other weapon was forbidden; and
 - (2) the actor at the time of the offense was a peace officer, including a commissioned peace officer of a recognized state, or a special investigator under Article 2.122, Code of Criminal Procedure, regardless of whether the peace officer or special investigator was engaged in the actual discharge of an official duty while carrying the weapon.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §10). See effective note for SB 4 following §3.03.

CHAPTER 38. OBSTRUCTING GOVERNMENTAL OPERATION

SEC. 38.04. EVADING ARREST OR DETENTION

(a) A person commits an offense if he intentionally flees from a person he knows is a peace officer or federal special investigator attempting lawfully to arrest or detain him.

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

- (1) a state jail felony if the actor has been previously convicted under this section;
- (2) a felony of the third degree if:
 - (A) the actor uses a vehicle or watercraft while the actor is in flight;
 - (B) another suffers serious bodily injury as a direct result of an attempt by the officer or investigator from whom the actor is fleeing to apprehend the actor while the actor is in flight; or
 - (C) the actor uses a tire deflation device against the officer while the actor is in flight; or
- (3) a felony of the second degree if:
 - (A) another suffers death as a direct result of an attempt by the officer or investigator from whom the actor is fleeing to apprehend the actor while the actor is in flight; or
 - (B) another suffers serious bodily injury as a direct result of the actor's use of a tire deflation device while the actor is in flight.

(b-1) Notwithstanding Subsection (b), an offense under this section is a felony of the third degree if it is shown on the trial of the offense that the actor committed the offense in the course of committing an offense under Section 20.05(a)(2).

- (c) In this section:
- (1) "Vehicle" has the meaning assigned by Section 541.201, Transportation Code.
 - (2) "Tire deflation device" has the meaning assigned by Section 46.01.
 - (3) "Watercraft" has the meaning assigned by Section 49.01.
- (d) A person who is subject to prosecution under both this section and another law may be prosecuted under either or both this section and the other law.

Amended effective Feb. 6, 2024 (SB 4, 3rd C.S., §11). See effective note for SB 4 following §3.03.