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Rules Governing Admission to the Bar of Texas



Adopted by the Supreme Court of Texas

Effective February 15, 2022

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About the Texas Board of Law Examiners

The Texas Board of Law Examiners is an agency of the Texas Supreme Court. The Board's sole purpose is to qualify applicants for admission to the State Bar of Texas. The Supreme Court is ultimately responsible for admitting those applicants certified by the Board as eligible for admission to the State Bar of Texas. In performing its duties, the Board administers and interprets the *Rules Governing Admission to the Bar of Texas,* promulgated by the Supreme Court. The State Bar of Texas disciplines its members, independent of the Board's work.

Nine Texas lawyers serve as members of the Board. They are appointed by the Supreme Court to serve staggered six-year terms. Each member must be a U.S. citizen, licensed to practice law in Texas, over the age of 35, and have been a practicing lawyer or judge of a court of record for a combined total of at least 10 years.

The Board staff investigates the background of every Bar applicant. The process begins with investigation of all first-year students in ABA-approved Texas law schools who intend to apply for admission after graduation. When Texas law students later apply for admission, the Board updates its investigation as the final step in certification of their character and fitness. Applicants for admission from other states and foreign countries are also investigated before being certified by the Board as eligible for admission. The investigation focuses on conduct indicating whether the applicant may have certain character traits or any currently existing mental or emotional condition likely to cause injury to a client, obstruct the administration of justice, or violate the *Texas Disciplinary Rules of Professional Conduct* if licensed to practice law.

The Board finally determines whether each applicant for admission has the good moral character and present fitness to practice law. In some cases, the Board may conduct a hearing to consider evidence offered by the Board staff and the applicant that is relevant to an applicant's moral character and present fitness. After consideration of the evidence and argument presented at the hearing, the Board issues a written order either certifying the applicant for admission, conditionally certifying, or declining to certify and stating its findings of fact and conclusions of law in support of that decision. The Board's character and fitness investigations, hearings, and orders are confidential by statute.

In addition to evaluating the character and fitness of Bar applicants, the Board is responsible for administration of the Texas Bar Exam as prescribed by the *Rules Governing Admission to the Bar of Texas.* The bar exam is administered semi-annually over two days during the last weeks of February and July. Members of the Board are responsible for grading answers to the written portions of the exam.

On behalf of the Supreme Court, the Board also receives payments for fees required of non-resident attorneys who seek to appear by permission before a Texas court. The Board remits all such fee payments to the Texas Comptroller for use by the Supreme Court in funding programs to provide basic legal services to indigent persons.

The Board's business meetings and final decisions in character and fitness hearings are conducted in open sessions with public notice under the Texas Open Meetings Act. Board records are subject to the Public Information Act, except where confidentiality is required by statute, rule or order of the Supreme Court. At every public meeting of the Board, time is allotted for interested persons to address the Board on matters of public interest and concern.

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Rule 1
Definitions and General Provisions

(a) Frequently used terms are defined as follows:

(1) "Accredited" means that a law school is recognized as being qualified by the competent accrediting agency of a State or foreign jurisdiction, by a political subdivision of a State or foreign jurisdiction, or by another authorized body of a State or foreign jurisdiction.

(2) "Applicant" means a person, including a person approved for a Probationary License, who files with the Board any Application to take the Texas Bar Examination, to be admitted to the Bar with or without the Texas Bar Examination, or for certification as a Foreign Legal Consultant.

(3) "Application" means an application or re-application submitted to the Board to take the Texas Bar Examination, to be admitted to the Bar with or without the Texas Bar Examination, or for certification as a Foreign Legal Consultant.

(4) "Approved law school" means a law school approved by the American Bar Association.

(5) "Authorized to practice law" means that the Applicant has achieved the ability to engage in activities that would be recognized in the United States as the practice of law.

(6) "Bar" means the State Bar of Texas.

(7) "Board" means the Texas Board of Law Examiners.

(8) "Chemical dependency" means substance use disorder as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual DSM-5 and any subsequent revisions thereof.

(9) "Controlled substance" has the meaning assigned by Section 462.001, Health and Safety Code.

(10) "Declarant" means a person who files with the Board a Declaration of Intention to Study Law.

(11) "Declaration" means a Declaration of Intention to Study Law.

(12) "Practice of law" includes:

(A) Private practice as a sole practitioner or for a law firm, legal service office, legal clinic, public agency, or similar entity;

(B) Practice as an attorney for an individual or for a corporation, partnership, trust, or other entity with the primary duties of furnishing legal counsel and advice; drafting and interpreting legal documents and pleadings: interpreting and giving advice regarding the law: or preparing, trying, or presenting cases before courts, departments of government, or administrative agencies;

(C) Practice as an attorney for a local, State or federal government, with the same primary duties described in the preceding subsection;

(D) Employment as a judge, magistrate, referee, or similar official for a local, State or federal government, provided that the employment is open only to

licensed attorneys;

(E) Employment as a full-time teacher of law at an approved law school; or

(F) Any combination of the preceding categories.

(13) "State" means any state or territory of the United States, as well as the District of Columbia.

(14) "Supreme Court" means the Supreme Court of Texas.

(15) "Texas Bar Examination" means the Uniform Bar Examination administered by the Board beginning with the February 2021 administration and the examination administered by the Board before the February 2021 administration.

(16) "Texas Bar Examination Security Policy" means the written policy statement published by the Board describing the conduct and activity of Applicants that is either prohibited or allowed during administration of the Texas Bar Examination.

(17) "Uniform Bar Examination" means the assessment coordinated by the National Conference of Bar Examiners and administered by the Board or by another State that is composed of the Multistate Essay Examination, two Multistate Performance Test tasks, and the Multistate Bar Examination.

(b) The terms "admitted," "admitted to the Bar," "licensed," and "licensed to practice law in Texas" are used interchangeably in these Rules.

(c) A document is considered filed when:

(1) the document and any required fee are submitted electronically through the Board's website; or

(2) the document and any required fee are received by the Board in accordance with the Board's written policies and instructions.

(d) A document submitted electronically is considered signed if the document includes:

(1) a name typed in the space where the signature would otherwise appear;

(2) an electronic or scanned image of the signature;

(3) a digital signature; or

(4) any other form of signature allowed by the Board's written policies and instructions.

(e) The Board must not disclose to any third party any information obtained with respect to the character or fitness of any Applicant or Declarant, except:

(1) upon written authority of the Applicant or Declarant;

(2) in response to a valid subpoena from a court of competent jurisdiction; or

(3) to the Bar's Office of Chief Disciplinary Counsel or to the Texas Unauthorized Practice of Law Committee.

(f) A document must be filed with the Board by the date stated in these Rules even if the date falls on a weekend or holiday.

(g) Every document required to be filed by these Rules must be filed through the electronic filing manager established by the Board. A document is considered timely filed if it is electronically filed by 11:59 p.m. Central Standard Time on the filing deadline.

Rule 2
General Eligibility Requirements for Admission to the Bar

(a) To be eligible for admission or reinstatement as a licensed attorney in Texas, an Applicant must:

(1) comply with all applicable requirements of these Rules;

(2) be at least 18 years of age;

(3) be of present good moral character and fitness;

(4) have completed the law study required under these Rules, unless specifically exempted under Rule 13;

(5) qualify under one of the following categories:

(A) be a United States citizen;

(B) be a United States national;

(C) be an alien lawfully admitted for permanent residence;

(D) be otherwise authorized to work lawfully in the United States, including in a period of Optional Practical Training; or

(E) be an Applicant who does not reside in the United States when the Application is submitted;

(6) have satisfactorily completed the Texas Bar Examination, unless specifically exempted from the Texas Bar Examination under Rule 13 (but an Applicant for reinstatement must not be so exempted);

(7) have satisfactorily completed the Multistate Professional Responsibility Examination;

(8) have satisfactorily completed the Texas Law Component, unless specifically exempted under Rule 5 (but an Applicant for reinstatement must not be so exempted);

(9) be willing to take the oath required of attorneys in Texas;

(10) pay the appropriate licensing fee to the Clerk of Supreme Court of Texas; and

(11) enroll in the Bar by filing an enrollment form and paying the appropriate fees and assessments due within the time specified in the State Bar Rules.

(b) If an Applicant does not satisfy all requirements for admission to the Bar within five years from the date that the Applicant is notified that the Applicant has passed the Texas Bar Examination, the Applicant's Texas Bar Examination score is void; provided, however, that the Board may waive this provision for good cause shown.

Rule 3
Law Study Requirement

(a) The law study requirement for eligibility of an Applicant to take the Texas Bar Examination, unless otherwise provided in Rule 13, is met by:

(1) graduation with a J.D. degree from an approved law school;

(2) satisfaction of all requirements for graduation from an approved law school with a J.D. degree; or

(3) study of law in an approved law school or schools by satisfying all requirements for graduation with a J.D. degree, except for not more than four semester hours or its equivalent in quarter hours; provided, however, that no person shall be licensed to practice law until graduation or satisfaction of all requirements for graduation, unless specifically excepted.

(b) If a law school was an approved law school when the Applicant enrolled, the law school is deemed to be an approved law school as to that Applicant for four years thereafter, regardless of its status when the Applicant graduated. If a law school was an approved law school when the Applicant graduated, the Applicant is deemed to be a graduate of an approved law school, regardless of the status of the school when the Applicant enrolled.

(c) If an Applicant graduated from a law school that was not an approved law school when the Applicant enrolled and was not an approved law school when the Applicant graduated, the Applicant is not a graduate of an approved law school even if the law school later became or becomes an approved law school.

Rule 4
Present Good Moral Character and Fitness Requirement

(a) No one shall be eligible for admission to the Bar or for certification as a Foreign Legal Consultant until the investigation of such person's moral character and fitness has been completed, and it has been determined by the Board that such individual possesses present good moral character and fitness.

(b) Good moral character is a functional assessment of character and fitness of a prospective lawyer. The purpose of requiring an Applicant to possess present good moral character is to exclude from the practice of law those persons possessing character traits that are likely to result in injury to future clients, in the obstruction of the administration of justice, or in a violation of the Texas Disciplinary Rules of Professional Conduct. These character traits usually involve either dishonesty or lack of trustworthiness in carrying out responsibilities. There may be other character traits that are relevant in the admission or certification process, but such traits must have a rational connection with the Applicant's present fitness or capacity to practice law and accordingly must relate to the legitimate interests of Texas in protecting prospective clients and in safeguarding the system of justice within Texas.

(c) Fitness, as used in these Rules, is the assessment of mental and emotional health as it affects the competence of a prospective lawyer. The purpose of requiring an Applicant to possess this fitness is to exclude from the practice of law any person having a mental or emotional illness or condition which would be likely to prevent the person from carrying out duties to clients, courts or the profession. A person may be of good moral character, but may be incapacitated from proper discharge of his or her duties as a lawyer by such illness or condition. The fitness required is a present fitness, and prior mental or emotional illness or conditions are relevant only so far as they indicate the existence of a present lack of fitness.

(d) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or an Applicant who has been convicted of a felony in Texas or placed on deferred adjudication community supervision in Texas, or who has been

convicted or placed on deferred adjudication community supervision or similar in another jurisdiction for a crime that would be a felony in Texas. A Declarant or Applicant may be found lacking in present good moral character and fitness under this rule based on the underlying facts of a felony conviction or deferred adjudication community supervision, as well as based on the conviction or deferred adjudication community supervision itself.

(1) Except as otherwise provided in paragraph (2), a felony conviction or felony deferred adjudication community supervision creates a rebuttable presumption that the Declarant or Applicant lacks present good moral character and fitness for a period of five years after the completion of the sentence and /or period of deferred adjudication community supervision. Such presumption may be rebutted based on the evidence shown under subsection (f).

(2) A felony conviction or felony deferred adjudication community supervision does not create a presumption that the Declarant or Applicant lacks present good moral character and fitness, if:

(A) the felony conviction or felony deferred adjudication community supervision has been reversed on review by an appellate court;

(B) the Declarant or Applicant has been pardoned for the felony; or

(C) the felony for which the Declarant or Applicant received deferred adjudication community supervision has been dismissed and discharged under Article 42A.111, Code of Criminal Procedure, unless the Delcarant or Applicant was placed on deferred adjudication community supervision for a felony:

(i) listed in Article 42A.054(a), Code of Criminal Procedure;

(ii) described by Article 62.001(5) or (6), Code of Criminal Procedure;

(iii) committed under Chapter 21 or 43, Penal Code; or

(iv) related to the practice of law.

(e) The following provisions shall govern the determination of present good moral character and fitness of a Declarant or Applicant who has been licensed to practice law in any jurisdiction and has been disciplined, or allowed to resign in lieu of discipline, in that jurisdiction:

(1) A certified copy of the order or judgment of discipline from the jurisdiction is prima facie evidence of the matters contained in such order or judgment, and a final adjudication in the other jurisdiction that the individual in question has committed professional misconduct is conclusive of the professional misconduct alleged in such order or judgment.

(2) An individual disciplined for professional misconduct in the course of practicing law in any jurisdiction or an individual who resigned in lieu of disciplinary action ("disciplined individual") is deemed not to have present good moral character and fitness and is therefore ineligible to file a Declaration or an Application during the period of such discipline imposed by such jurisdiction, and in the case of disbarment or resignation in lieu of disciplinary action, until the disciplined individual has properly filed an application for re- licensure in the disciplining

jurisdiction, in accordance with the procedures established for re-licensure in that jurisdiction, and has obtained a final determination on that application.

Notwithstanding the foregoing provision of this paragraph (e)(2), if the period of discipline imposed by another jurisdiction exceeds five years, the disciplined individual may file a Declaration or an Application after the expiration of five years from the date of imposition of such discipline, provided that (s)he has obtained a final determination on his/her application for re-licensure in the disciplining jurisdiction.

(3) The only defenses available to an Applicant or Declarant under subsection (e) are outlined below and must be proved by clear and convincing evidence:

(A) The procedure followed in the disciplining jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process.

(B) There was such an infirmity of proof establishing the misconduct in the other jurisdiction as to give rise to the clear conviction that the Board, consistent with its duty, should not accept as final the conclusion on the evidence reached in the disciplining jurisdiction.

(C) The deeming of lack of present good moral character and fitness by the Board during the period required under the provisions of subsection (e) would result in grave injustice.

(D) The misconduct for which the individual was disciplined does not constitute professional misconduct in Texas.

(4) If the Board determines that one or more of the foregoing defenses has been established, it shall render such orders as it deems necessary and appropriate.

(f) An individual who applies for admission to practice law in Texas or who files a petition for redetermination of present moral character and fitness under subsection (d) or after the completion of the disciplinary period assessed or ineligibility period imposed by any jurisdiction under paragraph (e)(2) shall be required to prove, by a preponderance of the evidence:

(1) that the best interest of the public and the profession, as well as the ends of justice, would be served by his or her admission to practice law;

(2) that (s)he is of present good moral character and fitness; and

(3) that during the five years immediately preceding the present application, (s)he has been living a life of exemplary conduct.

(g) An individual who files a petition for redetermination of present moral character and fitness after an adverse determination based on a felony conviction, felony deferred adjudication community supervision, or professional misconduct or resignation in lieu of disciplinary action and whose petition is denied after a hearing, is not eligible to file another petition for redetermination until after the expiration of three years from the date of the Board's order denying the preceding petition for redetermination.

(h) If an Applicant is alleged to have violated the Texas Bar Examination Security Policy, the Executive Director may withhold delivery of the Applicant's Texas Bar Examination results until the allegation is resolved by the Board. If, after notice and a hearing, the

Board determines that an Applicant violated the policy, the Board may deem the Applicant to have failed the Texas Bar Examination and prohibit the Applicant from taking the Texas Bar Examination in the future.

Rule 5
Multistate Professional Responsibility Examination and Texas Law Component Requirements

(a) Multi Professional Responsibility Examination. An Applicant for admission to the Bar must earn a scaled score of at least 85 on the Multistate Professional Responsibility Examination.

(b) Texas Law Component.

(1) Except as provided in paragraph (2), an Applicant for admission to the Bar must successfully complete the Texas Law Component prescribed by the Board and approved by the Supreme Court.

(2) An Applicant who passed the Texas Bar Examination before February 2021 need not successfully complete the Texas Law Component.

Rule 6
Declaration of Intention to Study Law General Provisions

(a) Every person who is beginning law study in an approved law school in Texas for the first time (an entrant) and who intends to apply for admission to the Bar shall, unless prohibited from filing by these Rules, file with the Board a Declaration, on a form promulgated by the Board.

(1) The Declaration shall show:

(A) the history, employment, experience, and educational qualifications of the Declarant;

(B) any law school in which the Declarant is or was enrolled;

(C) the Declarant's criminal history;

(D) any history of significant mental illness that is related to a history of misconduct;

(E the Declarant's history with regard to charges of fraud in any legal proceeding;

(F) the Declarant's involvement in any civil litigation or bankruptcy proceedings;

(G) the Declarant's willingness to take the oath required of attorneys in Texas;

(H) the Declarant's history as to compliance with court orders regarding child support and spousal support;

(I) the Declarant's history regarding re-payment of federally guaranteed student loans;

(J) the Declarant's history regarding the filing of required federal income tax returns and the payment of federal income tax liability;

(K) the Declarant's history regarding payment to the IRS of payroll taxes (s)he collected as an employer of others; and

(L) such other information regarding the Declarant as the Board deems reasonably related to its investigation of the Declarant's moral character and fitness.

(2) The Board may also require the Declarant to provide such supporting documents relating to the Declarant as the Board deems reasonable.

(3) The Board may also require the Declarant to execute a consent form supplied by the Board, authorizing all persons, firms, officers, corporations, associations, organizations, and institutions to furnish to the Board or any of its authorized representatives, all relevant documents, records, or other information pertaining to the Declarant.

(b) The timely filing deadline for such Declaration shall be as follows:

(1) Fall entrants, October 1;

(2) Regular spring entrants, May 1;

(3) Spring entrants at quarter-hour law schools, June 1;

(4) Summer entrants, September 15; and

(5) Entrants transferred from out-of-state schools, within 60 days of matriculation at a Texas law school.

(c) Declarations filed with the Board after the foregoing timely filing deadlines will be accepted only upon payment of applicable late fees as set forth in Rule 18, so long as they are filed by the final filing deadline set out in Rule 9. However, regardless of the date a Declaration is filed, the Board shall have 270 days from the date the Declaration is filed to conduct its character and fitness investigation and notify the Declarant of the Board's determination, as provided in Rule 8.

(d) Upon receipt of a Declaration, the Board shall note the filing date in its records. Absent a Declarant's written request to retain a Declaration, all Declarations will be destroyed five years after the date of filing if the Declarant has not applied to take the Texas Bar Examination or to transfer a Uniform Bar Examination score from another State.

(e) The Board shall conduct a complete investigation of the moral character and fitness of the Declarant.

Rule 7
Confidential Information

Pursuant to Government Code Section 82.003, the following records of the Board of Law Examiners are exempt from disclosure under the Public Information Act, Texas Government Code, Chapter 552:

(a) examinations, including:

(1) current or potential future questions, including drafts and related research;

(2) model answers or scoring keys;

(3) the grades, results, or answers of an examinee;

(4) raw scores or grader comments; and

(5) the name and contact information of any grader who is not a Board member; and

(b) except as provided by Rule 15, moral character and fitness records and deliberations,

including:

(1) Declarations and Applications, including attachments;

(2) any documents resulting from the Board's moral character and fitness investigation of an Applicant; and

(3) minutes or recordings of Board meetings or hearings on an Applicant's moral character and fitness.

Rule 8
Determination of Declarant Character and Fitness

(a) After completing its investigation, the Board shall determine whether, on all the documentation before it, the Board is satisfied that the Declarant possesses the good moral character and fitness necessary for admission to the Bar and shall advise the Declarant accordingly, no later than the 270th day after the date the Declaration and fees were filed with the Board. If the determination is that the Declarant does not have the requisite good moral character and fitness, such notice shall include:

(1) a detailed analysis of the results of the investigation; and

(2) an objective list of actions, if any, which the Declarant may take to correct the deficiencies and to become qualified for admission to the Bar after completing all other requirements for admission.

(b) A hearing may be set on any such adverse preliminary determination, in accordance with Rule 15.

(c) If, after investigation, the Board determines that a Declarant:

(1) may suffer from chemical dependency, the Board shall direct the Declarant to meet with representatives of the Bar's Lawyers Assistance Program or a similar program of the Bar, and may require that the Declarant submit to a treatment facility for evaluation.

(2) does suffer from chemical dependency, the Board shall assist the Declarant in working with the Bar's Lawyers Assistance Program or a similar program of the Bar to address the dependency.

(d) Any preliminary determination that the Declarant possesses the good moral character and fitness necessary for admission to the Bar is issued on the condition that the Declarant has faithfully complied with these Rules. If at any time before the Declarant is certified to the Supreme Court for licensure it appears that the Declarant obtained such preliminary determination via fraud, concealment, deception, material omission, or by failure to comply with these Rules, the Board may suspend such preliminary determination and continue its investigation for an additional 90 days from the date the Board discovers the apparent fraud, concealment, deception, material omission, or failure to comply with these Rules.

Rule 9
Application to Take the Texas Bar Examination

(a) Except as provided in (f), every Applicant to take the Texas Bar Examination must file with the Board an Application with all required fees by the deadlines stated below.

(1) February Texas Bar Examination.

(A) Timely Filing Deadline for Application to Take the Texas Bar Examination. The timely filing deadline is September 1.

(B) *Late Filing Deadline for Application to Take the Texas Bar Examination.* If accompanied by a $150 late filing fee, the Board will accept an Application filed after September 1 and by November 1.

(C) *Application for Testing Accommodations.* An application for testing accommodations must be filed with the Application to take the Texas Bar Examination, but no later than November 1.

(D) *Final Filing Deadline for Application to Take the Texas Bar Examination.* If accompanied by a $300 late fee, the Board will accept an Application submitted by December 1. The Board will not accept an Application for the February Texas Bar Examination after December 1 for any reason.

(2) July Texas Bar Examination.

(A) Timely Filing Deadline for Application to Take the Texas Bar Examination. The timely filing deadline is February 1.

(B) *Late Filing Deadline for Application to Take the Texas Bar Examination.* If accompanied by a $150 late filing fee, the Board will accept an Application filed after February 1 and by April 1.

(C) *Application for Testing Accommodations.* An application for testing accommodations must be filed with the Application to take the Texas Bar Examination, but no later than April 1.

(D) *Final Filing Deadline for Application to Take the Texas Bar Examination.* If accompanied by a $300 late fee, the Board will accept an Application submitted by May 1. The Board will not accept an Application for the July Texas Bar Examination after May 1 for any reason.

(b) The Application shall be made on a form furnished by the Board and calling for information reasonably related to a thorough inquiry into the Applicant's good moral character, fitness, legal education and other qualifications required in these Rules. Applicants who have filed a Declaration required under these Rules shall be required to complete the Application with information relating only to the period since the filing of the Declaration.

(c) The Board may require the filing of a Supplemental Investigation Form in situations deemed appropriate by the Board.

(d) The Applicant shall furnish proof satisfactory to the Board of compliance with the law study requirements of Rule 3, and no Applicant shall be admitted to the Texas Bar Examination until the Board has determined that these requirements have been met.

(e) Upon the filing of an Application, the Board shall note the filing date and shall initiate an

investigation of the Applicant. For Applicants who filed a Declaration required under these Rules, the investigation shall cover only the period of time subsequent to the filing of the Declaration, unless other matters relevant to moral character or fitness not previously revealed in such Declaration shall have come to the attention of the Board.

(f) The filing deadlines and late fees set out in subsection (a) shall not apply to re-applicants who failed the immediately preceding Texas Bar Examination and who therefore could not have met the subsection (a) deadlines. Any such re-applicant may take the next Texas Bar Examination given upon filing a re-application and paying the required fees by:

(1) December 1, for the February Texas Bar Examination; or

(2) June 1, for the July Texas Bar Examination.

Rule 10
Determination of Applicant Character and Fitness

(a) After completing its investigation on the Application, the Board shall determine whether, on all the documentation before it, the Board is satisfied that the Applicant possesses the requisite present good moral character and fitness. The Board must advise an Applicant who timely filed a Declaration of the Board's determination no later than the 150th day after the date the Application and fees were filed. The Board must advise all other Applicants of its determination no later than 270 days after the date that the Application and fees were filed. If the determination is that the Applicant does not have the requisite present good moral character and fitness, such notice shall include:

(1) a detailed analysis of the results of the investigation; and

(2) an objective list of actions, if any, which the Applicant may take to correct the deficiencies and to become qualified for admission to the Bar after completing all other requirements for admission.

(b) If, after investigation, the Board determines that an Applicant:

(1) may suffer from chemical dependency, the Board shall require the Applicant to obtain a chemical dependency evaluation performed by a mental health professional designated by the Board;

(2) does suffer from chemical dependency, the Board shall assist the Applicant in working with the Bar's Lawyers Assistance Program or a similar program of the Bar; or

(c) A hearing may be set on any such adverse preliminary determination, in accordance with Rule 15.

(d) Any preliminary determination that the Applicant possesses the requisite present good moral character and fitness is issued on the condition that the Applicant has faithfully complied with these Rules. If at any time before the Applicant is certified to the Supreme Court for licensure it appears that the Applicant obtained such preliminary determination via fraud, concealment, deception, material omission, or by failure to comply with these Rules, the Board may suspend such preliminary determination and continue its investigation for an additional 90 days from the date the Board discovers the apparent fraud, concealment, deception, material omission, or failure to comply with these Rules.

(e) The Applicant has a continuing duty to ensure the accuracy and completeness of the

Applicant's responses on the Application and to update those responses until the Applicant is certified to the Supreme Court for licensure. The Applicant shall notify the Board, in writing, as soon as practicable, but no later than 30 days after the Applicant knew or should have known of any information necessary to ensure the accuracy and completeness of the Applicant's responses. The Applicant shall promptly furnish any additional documentation requested by the Board in connection therewith. The Board is authorized to re-open its investigation for up to 90 days following receipt of any addition, change, or update to information previously provided to the Board.

Rule 11
Texas Bar Examination

(a) The Texas Bar Examination will be given at such places as the Board may direct.

(b) The Texas Bar Examination will be given twice a year, beginning on the Tuesday before the last Wednesday of the months of February and July, unless the Board otherwise directs.

(c) An Applicant approved to take the Texas Bar Examination must attend the Texas Bar Examination at the time and place designated by the Board.

(d) The Texas Bar Examination administered before the February 2021 administration will last two days and consist of the Multistate Performance Test (MPT); the Procedure and Evidence Questions (P&E); the Multistate Bar Examination (MBE); and the Texas Essay Questions (Essays). After grading the answers to the MPT, the P&E, and the Essays, the resulting raw scores on each of these portions will be scaled to the MBE, using the standard deviation method. Scores on the various portions of the examination will be weighted as follows: MPT, 10%; P&E, 10%; MBE, 50%; and Essays, 30%. An Applicant must earn a combined scaled score of at least 675 (out of a possible 1,000 points) to pass the Texas Bar Examination. A partial score on any portion of a failed examination must not be applied to any subsequent examination.

(e) The Texas Bar Examination administered beginning with the February 2021 administration will last two days and consist of the Uniform Bar Examination components: the Multi Essay Examination (MEE), given on Tuesday; the MPT, given on Tuesday; and the MBE, given on Wednesday. Scores on the various portions of the examination will be weighted as follows: MEE, 30%; MPT, 20%; and MBE, 50%. An Applicant must earn a combined scaled score of at least 270 (out of a possible 400 points) to pass the Texas Bar Examination. A partial score on any portion of a failed examination must not be applied to any subsequent examination.

(f) An Applicant—who, after a combined total of five examinations, has failed to pass the Texas Bar Examination or earn a score of at least 270 on the Uniform Bar Examination administered in another State—cannot take another Texas Bar Examination or be admitted to the Bar based on a transferred Uniform Bar Examination score. For good cause shown, the Board may waive this prohibition.

(g) An Applicant who has failed the Texas Bar Examination more than once may submit a written request, within two weeks of the release of the Texas Bar Examination results, for a Formal Review of the Applicant's performance on the immediately preceding Texas Bar Examination, excluding the MBE portion). A Formal Review means an individual

oral review of the Applicant's Texas Bar Examination papers by the examining Board members that takes place in Austin at a time selected by the Board. Regardless of the number of Texas Bar Examinations taken, an Applicant may receive only one Formal Review under this subsection.

(h) An Applicant who has failed the Texas Bar Examination is eligible to receive a written analysis of the Applicant's performance on the Texas Bar Examination. The Board may determine the form and content of the written analysis.

(i) The Board must keep, for one year from the date of every Texas Bar Examination, all failing Texas Bar Examinations. The Board need not keep any part of passing Texas Bar Examinations.

Rule 12
Examinees with Disabilities

(a) The Texas Bar Examination shall be administered to all eligible Applicants in a reasonable manner, while maintaining the integrity of the Texas Bar Examination. In each city in which the Texas Bar Examination is administered, the Board shall provide facilities that are reasonably accessible and which enable persons having disabilities to take the Texas Bar Examination.

(b) Any Applicant who desires special testing accommodations based upon a disability shall submit a written request to the Board on forms designated by the Board, such request to be submitted at the same time as the Application is submitted.

(c) A request for special testing accommodations must be accompanied by written proof evidencing the existence of the disability. Statements from licensed physicians or a professional specialist that specifically set forth the physical, mental or emotional handicap or disability and the relationship between the disability and the inability to take the Texas Bar Examination under standard conditions shall be required. The Board may require additional information or evidence from the Applicant and may, at its option, seek professional evaluation of such data. The Applicant will be responsible for the cost of obtaining documented medical evidence and other required information.

(d) After considering the written request of the Applicant and the evidence submitted, the Board shall determine what reasonable special testing accommodations will be granted.

(e) Board deliberations and determinations regarding the request of an Applicant for testing accommodations on the Texas Bar Examination shall be closed to the public and associated records are confidential. However, this does not limit the Board's option under subsection (c) to seek professional evaluation of any confidential information supplied by Applicants.

Rule 13
Applicants from Other Jurisdictions

§1 Exemption from the Texas Bar Examination Based on a Transferred Uniform Bar Examination Score

An Applicant who has earned a score of at least 270 on the Uniform Bar Examination in another State must meet the requirements imposed on any other Applicant under these

Rules, except that the Applicant is exempt from the requirement of successfully completing the Texas Bar Examination if the Uniform Bar Examination score was earned within five years immediately preceding the filing of the Application.

§2 Exemption from the Texas Bar Examination for Applicants Who Are Authorized to Practice Law in Another State

An Applicant who is authorized to practice law in another State must meet the requirements imposed on any other Applicant under these Rules, except that the Applicant is exempt from the requirement of successfully completing the Texas Bar Examination if the Applicant has been actively and substantially engaged in the lawful practice of law as the Applicant's principal business or occupation for at least five of the last seven years immediately preceding the filing of the Application.

§3 Exemption from the Law Study Requirement for Applicants Who Are Authorized to Practice Law in Another State

An Applicant who is authorized to practice law in another State is exempt from the law study requirement prescribed by Rule 3 if the Applicant:

(a) has been actively and substantially engaged in the lawful practice of law as the Applicant's principal business or occupation for at least three of the last five years immediately preceding the filing of the most recent Application; and

(b) either;

(1) holds a J.D. degree, from an unapproved law school that is accredited in the State where it is located; or

(2) holds the equivalent of a J.D. degree from a law school that is accredited in the State where it is located and that requires a course of study that is substantially equivalent in duration and substance to the legal education provided by an approved law school.

§4 Exemption from the Law Study Requirement for Foreign Applicants with a Common-Law Legal Education or Who Are Authorized to Practice Law in a Common-Law Country

An Applicant is exempt from the law study requirement prescribed by Rule 3 if the Applicant satisfies the requirements of subsection (a), (b), or (c) below:

(a) the Applicant:

(1) has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:

(A) based on the principles of English common law; and

(B) substantially equivalent in duration to the legal education provided by an approved U.S. law school;

(2) is authorized to practice law in a foreign jurisdiction or another State; and

(3) has been actively and substantially engaged in the lawful practice of law for at least three of the last five years immediately preceding the Applicant's most recent Application;

(b) the Applicant:

(1) has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:

(A) based on the principles of English common law; and

(B) at least two years in duration; and

(2) has completed an LL.M. degree that meets the curricular requirements of Section 9 at an approved U.S. law school; or

(c) the Applicant:

(1) is authorized to practice law in a foreign jurisdiction, the jurisprudence of which is based on the principles of English common law; and

(2) has completed an LL.M. degree that meets the curricular requirements of Section 9 at an approved U.S. law school.

§5 Exemption from Law Study Requirement for Foreign Applicants Without a Common-Law Legal Education

An Applicant is exempt from the law study requirement prescribed by Rule 3 if the Applicant satisfies the requirements of subsections (a)-(c) below:

(a) the Applicant has completed a course of study at a foreign law school that is accredited in the jurisdiction where it is located, and the course of study is:

(1) not based on the principles of English common law; and

(2) substantially equivalent in duration to the legal education provided by an approved U.S. law school;

(b) the Applicant has completed an LL.M. degree that meets the curricular requirements of Section 9 at an approved U.S. law school; and

(c) the Applicant is authorized to practice law in a foreign jurisdiction or in another State.

§6 No Degree by Correspondence

A J.D. degree or an equivalent degree completed at a foreign law school that is earned primarily through online courses or other distance-learning programs does not satisfy the requirements of this Rule.

§7 Credits Earned at Foreign Law Schools

An Applicant may be exempt from the law study requirement under Sections 4 or 5 even if the Applicant completed his or her course of study at a different foreign law school than the school at which the Applicant began, provided that all coursework and credit hours that count towards the applicable durational requirement are based on the same type of legal system—English common law or other—and are earned at a school accredited in the jurisdiction where it is located.

§8 Accreditation of Foreign Law Schools

(a) If a law school was accredited when the Applicant enrolled, the law school is deemed to be an accredited law school as to that Applicant for four years thereafter, regardless of its status at the date of the Applicant's graduation. If a law school was accredited when the Applicant graduated, the Applicant is deemed to be a graduate of an accredited law school, regardless of the status of the school when the Applicant enrolled.

(b) If an Applicant graduated from a law school that was not accredited when the Applicant enrolled and was not accredited when the Applicant graduated, the Applicant is not a graduate of an accredited law school even if the law school later became or becomes an accredited law school.

(c) Notwithstanding Sections 4 and 5, an Applicant is excused from demonstrating that a foreign law school is accredited if the Applicant demonstrates that no entity accredits or approves law schools in the jurisdiction in which the school is located.

§9 LL.M. Curriculum Criteria

(a) Unless subsection (b) or (c) applies, for an LL.M. degree to satisfy the requirements of this Rule, the course of study for which the degree is awarded must meet each of the following requirements:

(1) the program must consist of minimum of 24 semester hours of credit—or the equivalent, if the law school is on an academic schedule other than a conventional semester system—which must consist of courses in substantive and procedural law or professional skills;

(2) the program must require at least 700 minutes of instruction time, exclusive of examination time, for the granting of one semester of credit;

(3) the program must include a period of instruction consisting of no fewer than two semesters of at least 13 calendar weeks each, or the equivalent thereof, exclusive of reading periods, examinations, and breaks;

(4) the program must not be completed exclusively during summer semesters, but a maximum of four semester hours of credit may be earned in courses completed during summer semesters;

(5) the program must be completed within 24 months of matriculation;

(6) all coursework for the program must be completed at the campus of an approved law school in the United States, except as otherwise permitted by paragraph 8 or subsection (b);

(7) the program must include:

(A) at least two semester hours of credit in professional responsibility;

(B) at least two semester hours of credit in legal research, writing, and analysis, which may not be satisfied by a research-and-writing requirement in a substantive law course;

(C) at least two semester hours of credit in a course designed to introduce students to distinctive aspects and fundamental principles of United States law, which may be satisfied by an introductory course in the American legal system or a course in United States constitutional law, civil procedure, or contract law—additional credit hours earned in a course that meets the requirements of this subparagraph may be applied towards the requirements of subparagraph (D); and

(D) at least six semester hours of credit in subjects tested on the Texas Bar Examination;

(8) the program may also include, towards satisfaction of the 24 semester hours of

credit required by this Rule:

(A) up to four semester hours of credit in clinical coursework, if:

(i) the coursework includes a classroom instructional component that incorporates discussion, review, and evaluation of the clinical experience;

(ii) the clinical work is performed under the direct supervision of a member of the law school faculty or instructional staff; and

(iii) the time and effort required and the anticipated educational benefit are commensurate with the credit awarded; and

(B) up to six semester hours of credit in other coursework related to the law or legal training taught in conjunction with a joint degree program by a member of the law school faculty, a faculty member of the university or college with which the law school is affiliated, or a faculty member of a university or college with which the law school offers a joint degree program-provided that the coursework is completed at the U.S. campus of the law school, university, or college; and

(9) courses completed online or by other distance-learning programs must not count toward the required minimum 24 semester hours of credit.

(b) A law school may petition the Board for an exception to the requirements of paragraph (a)(6). The law school must demonstrate to the satisfaction of the Board that the quality of education provided at the school's campus abroad is substantially equivalent to the quality of education provided at the school's U.S. campus.

(c) An Applicant who completed an LL.M. degree before October 1, 2016 is exempt from demonstrating that the degree meets the curricular requirements of subsection (a).

§10 Proof of Active and Substantial Engagement in the Practice of Law and Authorization to Practice Law in a Foreign Jurisdiction

(a) An Applicant who seeks exemption from the Texas Bar Examination or the law study requirement under a section of this Rule that requires a period of active and substantial engagement in the practice of law preceding the Application must furnish to the Board proof of active and substantial engagement in the practice of law. But this requirement may not be satisfied by proof of practice *pro hac vice* under Rule 19.

(b) Unless subsection (c) or (d) applies, an Applicant who seeks exemption from the Texas Bar Examination or the law study requirement under a section of this Rule that requires that the Applicant be authorized to practice law in a foreign jurisdiction or another State must submit written proof of the authorization from the entity with final jurisdiction over professional discipline in the foreign jurisdiction or State where the Applicant is authorized to practice. The document must certify:

(1) that the Applicant is authorized to practice law in the jurisdiction or State;

(2) the date that the Applicant became authorized to practice law in the jurisdiction or State; and

(3) that the Applicant remains in good standing as an attorney or counselor at law in the jurisdiction or State.

(c) The Board may waive the requirements of subsection (b) if an Applicant demonstrates good cause for failing to obtain the certificate required by that subsection.

(d) Proof of authorization to practice law may be satisfied by proof that the Applicant is lawfully engaged in the practice of law as an inhouse counsel in a foreign jurisdiction that requires a person to surrender that person's law license in order to practice in-house.

Rule 14
Foreign Legal Consultants

§1 General Requirements for Certification

In its discretion, the Supreme Court may certify to practice in Texas as a legal consultant (a "Foreign Legal Consultant"), without examination, an Applicant who satisfies the requirements of subsection (a) or (b):

(a) the Applicant:

(1) for at least three of the five years immediately preceding the Application, has been a member in good standing of a recognized legal profession in a foreign country, the members of which are authorized to practice as attorneys or counselors at law or the equivalent and are subject to effective regulation and discipline by a duly constituted professional body or a public authority;

(2) possesses the present good moral character and general fitness requisite for a member of the Bar;

(3) is at least 26 years of age; and

(4) intends to practice as a Foreign Legal Consultant in Texas and to maintain an office in Texas for that purpose; or

(b) the Applicant:

(1) for at least three of the five years immediately preceding the Application:

(A) has been authorized to practice law in a foreign jurisdiction;

(B) has been a member in good standing of the bar of another State; or

(C) has been actively and substantially engaged in the lawful practice of law in a foreign country or another United States jurisdiction;

(2) possesses the present good moral character and general fitness requisite for a member of the Bar;

(3) is at least 26 years of age; and

(4) intends to practice as a Foreign Legal Consultant in Texas only as an employee of and on behalf of a single individual, corporation, limited liability company, partnership, association, nonprofit entity, or governmental agency whose primary business is not the provision of legal services to the public.

§2 Application for Certification

An Applicant under this Rule must submit to the Board:

(a) an Application on the forms designated by the Board, that is signed by both the Applicant and a sponsoring member of the Bar who is in good standing and has been a

member of the Bar for at least five years;

(b) the fee required by the Board;

(c) either:

(1) a certificate or other document from the entity with final jurisdiction over professional discipline in the foreign jurisdiction or State where the Applicant is authorized to practice that certifies:

(A) that the Applicant is authorized to practice law in the jurisdiction or State;

(B) the date that the Applicant was authorized to practice law in the jurisdiction or State; and

(C) that the Applicant remains in good standing as an attorney or counselor at law in the jurisdiction or State; or

(2) if the Applicant seeks certification under subparagraph 1(b)(1)(C), but the Applicant is not authorized to practice in a foreign jurisdiction or another State, proof that the Applicant has been actively and substantially engaged in the lawful practice of law in a foreign jurisdiction or another State for at least three of the five years immediately preceding the Application;

(d) a duly authenticated English translation of every document required by this Rule, if the original is not in English; and

(e) any other evidence demonstrating that the Applicant satisfies the requirements of Section 1 that the Board may require.

Upon completion of the Board's review of the information submitted by the Applicant and its investigation of the Applicant's qualifications, moral character, and fitness, if the Board determines that Applicant has satisfied the requirements of Sections 1 and 2, the Board must recommend to the Court the certification of the Applicant to practice in Texas as a Foreign Legal Consultant.

§3 Scope of Practice

A person certified to practice as a Foreign Legal Consultant under this Rule may render legal services in Texas in the manner and to the extent permitted by the jurisdiction in which the person is authorized to practice or, in the case of a person who satisfies the requirements of subparagraph 1(b)(1)(C), to the extent permitted by the jurisdiction in which the person has been actively and substantially engaged in the lawful practice of law. But the Foreign Legal Consultant must not:

(a) appear for a person other than himself or herself as an attorney in any court, or before any magistrate or other judicial officer, in Texas;

(b) prepare any instrument effecting the transfer or registration of title to real estate located in the United States of America;

(c) prepare:

(1) any will or trust instrument effecting the disposition on death of any property located in the United States of America and owned by a resident thereof; or

(2) any instrument relating to the administration of a decedent's estate in the United States of America;

(d) prepare any instrument in respect of the marital or parental relations, rights, or duties of a resident of the United States of America, or the custody or care of the children of such a resident;

(e) render professional legal advice on the law of Texas or of the United States (unless the person is licensed in another State), except:

(1) on the basis of advice from a person, whom the Foreign Legal Consultant has identified to the client, who:

(A) is authorized to practice law in Texas or in the United States; and

(B) either:

(i) serves as co-counsel with the Foreign Legal Consultant on a matter for the client; or

(ii) is affiliated with the Foreign Legal Consultant through employment, partnership, or membership in the same law firm, company, or governmental agency; or

(2) as an in-house counsel advising the Foreign Legal Consultant's employer in the scope of his or her employment;

(f) in any way hold himself or herself out as a member of the Bar; or

(g) carry on his or her practice under, or use in connection with such practice, any name, title, or designation other than one or more of the following:

(1) his or her own name;

(2) the name of the law firm with which he or she is affiliated;

(3) his or her authorized title in the foreign country in which he or she is authorized to practice, which may be used in conjunction with the name of such country; and

(4) the title "Foreign Legal Consultant," which may be used in conjunction with the words "authorized to the practice of law in [name of the foreign country in which he or she is authorized to practice]."

§4 Rights and Obligations

Subject to the limitations set forth in Section 3, a person certified as a Foreign Legal Consultant under this Rule is considered to be a lawyer affiliated with the Bar and is entitled and subject to:

(a) the rights and obligations of a member of the Bar that are set forth in the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct or that arise from the other conditions and requirements that apply to a member of the Bar under the Texas Disciplinary Rules of Professional Conduct; and

(b) the rights and obligations of a member of the Bar with respect to:

(1) affiliation in the same law firm with one or more members of the Bar, including by:

(A) employing one or more members of the Bar;

(B) being employed by one or more members of the Bar or by any partnership or professional corporation that includes members of the Bar or that maintains an office in Texas; and

(C) being a partner in any partnership or a shareholder in any professional corporation that includes members of the Bar or that maintains an office in Texas; and

(2) attorney-client privilege, work-product privilege, and similar professional privileges.

A person certified as a Foreign Legal Consultant under this Rule is not a "nonlawyer" as that term is used in Rules 5.03 or 5.04 of the Texas Disciplinary Rules of Professional Conduct.

A person who receives legal advice from a Foreign Legal Consultant is entitled to all privileges arising from the attorney-client relationship.

§5 Disciplinary Provisions

(a) Every person certified to practice as a Foreign Legal Consultant under this Rule is subject to censure, suspension, removal, or revocation of his or her certification to practice by the Supreme Court.

(b) Every Foreign Legal Consultant must execute and file with the Board, in such form and manner as the Board may prescribe:

(1) a written commitment

(A) to observe the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct, to the extent that the Act and the Rules are applicable to the legal services authorized under Section 3; and

(B) to notify the Board of any change in the person's good standing as a member of a foreign legal profession and of any final disciplinary action of the professional body or public authority that regulates attorneys in the foreign jurisdiction in which the Foreign Legal Consultant is authorized to practice law; and

(2) a notarized document that sets forth the person's address in Texas and designates the Executive Director of the Board as the person's agent for service of process in any action or proceeding brought against the person that arises from legal services rendered or offered to be rendered by the person within or to residents of Texas, whenever after due diligence service cannot be made on the person at the address on file with the Board.

(c) Service of process on the Executive Director of the Board under paragraph (b)(2) must be made by personally delivering to, and leaving with, the Executive Director, or another person at the office of the Board who is authorized to receive service, two copies of the citation and petition and a fee of $10. The Board must promptly send one copy to the Foreign Legal Consultant by certified mail, return receipt requested, at the address designated by the Foreign Legal Consultant under paragraph (b)(2).

§6 Renewal of Certification

(a) Unless revoked by the Board under Section 7, a certification to practice as a Foreign Legal Consultant is valid for one year.

(b) A Foreign Legal Consultant may renew his or her certification by submitting to the Board at least 60 days before the certification expires:

(1) a written request for renewal of the certification;

(2) the renewal fee required by Rule 18(a);

(3) proof that the Applicant completed three hours of minimum continuing legal education in ethics courses accredited by the Bar; and

(4) a written statement, signed by the Applicant under oath, that the Applicant complied with the terms of the certificate and this Rule during the certification period.

(c) The Board must grant the Applicant's request unless it determines that the Applicant is not entitled to renew his or her certification under this Rule.

(d) If the renewal application is timely submitted, the Board must notify the Applicant of the Board's decision before the Applicant's certification expires. If the renewal application is not timely submitted, the Applicant, upon a showing of good cause, may submit a renewal application up to 180 days after the Applicant's certification expires. After the 180-day grace period has passed, an Applicant must reapply for certification under Section 2.

§7 Revocation of Certification

If the Board determines that a person certified as a Foreign Legal Consultant under this Rule no longer meets the requirements for certification set forth in Section 1, the Board must recommend to the Court that the person's certification be revoked, unless the Board waives under Rule 20(e) the requirements that are lacking.

§8 Admission to Bar

If a person certified as a Foreign Legal Consultant under this Rule is subsequently admitted to the Bar under other provisions of these Rules, the certification to practice as a Foreign Legal Consultant is superseded by the license to practice law as a person admitted to the Bar.

Rule 15
Hearings

(a) The Board shall set a time and place for a hearing on the question of the requisite moral character and fitness of an Applicant or Declarant, under the following circumstances:

(1) When any Applicant or Declarant who is the subject of an adverse preliminary character and fitness determination files a written request for such a hearing within 30 days of his or her receipt of the Board's letter containing the notice of such determination; or

(2) When the Board determines that, in the interest of fairness, such a hearing is necessary regardless of whether the Applicant or Declarant files a timely request for hearing.

(b) If there are pending proceedings involving the Applicant or Declarant, the resolution of which could affect the determination of his/her character and fitness, the Board may exercise its discretion to defer the hearing until such time as the pending proceeding is

resolved.

(c) Board hearings, deliberations, and determinations relating to the moral character and fitness of an Applicant or Declarant shall be closed to the public and records relating to these subjects are confidential. On written request of an Applicant or Declarant, however, the Applicant or Declarant is entitled to have the hearing open to persons designated by the Applicant or Declarant.

(d) Reasonable notice of the time and place for the hearing may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.

(e) An Applicant or Declarant, either before or after receiving notice of a hearing, may agree to waive the hearing, stipulate to the facts regarding good moral character and fitness, and allow the Board to proceed with making a final determination as to the Applicant's moral character and fitness under these Rules. An Applicant may additionally agree to a Probationary License and to any conditions imposed by the Board to protect the public.

(f) At the hearing:

(1) The Board shall have the burden of proof and be required to present evidence that the Applicant or Declarant does not have the requisite good moral character or fitness. Upon the admission of such evidence, the burden of proof shall shift to the Applicant or Declarant to show that the Applicant possesses good moral character and fitness as defined in these Rules. However, in a redetermination hearing on a Probationary License, the burden of proof shall be on the Probationary Licensee to demonstrate that (s)he has complied with the conditions of the Probationary License.

(2) The Applicant or Declarant shall be given the opportunity to be present in person and by attorney, to present evidence, to confront and to cross-examine adverse witnesses, and to present argument to the Board on the issues of law and fact; provided, however, that evidence otherwise inadmissible may be admitted if the evidence is of a type on which a reasonably prudent person commonly relies in the conduct of the person's affairs.

(g) In connection with hearings conducted under this Rule, the Board shall have the authority to administer oaths, issue subpoenas, take depositions, and employ court reporters.

(h) After the hearing, in closed deliberations, the Board may:

(1) determine that an Applicant or Declarant has the requisite present good moral character and fitness and, in the case of an Applicant, should be recommended for admission to the Bar;

(2) determine that a Declarant should be granted conditional approval of his or her present good moral character and fitness and be required to meet such conditions as the Board deems appropriate;

(3) determine that an Applicant should be granted conditional approval of his or her present good moral character and fitness and be recommended for a Probationary License subject to Rule 16, after meeting all other requirements of these Rules;

(4) determine that an Applicant or Declarant does not possess the requisite present good moral character and fitness required for admission to the Bar;

(5) defer a decision until such time as the Board has the opportunity to consider further information, evaluations, or documentation as deemed necessary by the Board; or

(6) in the case of a Probationary License, recommend to the Supreme Court that the license should be renewed in its present form, renewed with additional or amended conditions, or revoked and no regular license be issued.

(i) Within a reasonable period of time after the decision is made, the Board shall furnish to the Applicant or Declarant a written order setting forth the decision of the Board. If the decision is adverse, such order shall specify the bases of the Board's determination and shall include an objective list of actions, if any, the Applicant or Declarant may take to become qualified for a license to practice law in Texas. Any such order containing a determination that the Applicant or Declarant suffers from chemical dependency shall include provisions setting out the rights under Section 82.038, Texas Government Code. The Board's order may be served electronically if the email address of the party or attorney to be served is on file with the Board. Any notice not served electronically may be served in person, by mail, by commercial delivery service, by fax, by email or by such other means as the Board may direct.

(j) An individual who has been the subject of a Board order containing an adverse character and fitness determination may petition the Board in writing for a redetermination hearing subject to Rule 15 on the issue of character and fitness, as follows:

(1) No petition for redetermination may be filed earlier than the date specified in the Board's order (or if none, then no earlier than 12 months from the date of the hearing), nor more often than once every 12 months.

(2) Such individual shall have the burden of proof as to rehabilitation and the possession of present good moral character and fitness.

(3) Such individual shall complete and file with the Board a Supplemental Investigation Form and pay the requisite fees therefore within 30 days of the filing of the redetermination petition.

(4) This subsection shall not apply to character and fitness redeterminations in Probationary License cases, which are governed under Rule 16.

(k) The following provisions shall govern judicial review of the Board's decisions:

(1) The affected Applicant or Declarant shall institute, in the district courts of Travis County, Texas proceedings for review of such decision within 60 days after the date the written decision is sent to the Applicant.

(2) The petition for review shall name the Board as defendant and shall be served on the Executive Director of the Board.

(3) After service of such petition, and within the time permitted for filing an answer, the Board shall file with the district court a certified copy of the record of the Board's proceedings.

(4) The review of the Board's decision shall be tried by the court without a jury.

(5) The court shall determine from the certified record on file whether or not the Board's decision is reasonably supported by substantial evidence. The reviewing court may affirm the action complained of or remand the matter to the Board for further proceedings.

(6) Appeals from any final judgment of the court may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Board.

(l) The Board shall have the authority to adopt such other rules of procedure for character and fitness hearings, not inconsistent with these Rules, as the Board deems necessary or appropriate to implement these Rules.

(m) Decisions of the Board on matters other than character and fitness following a hearing under this Rule shall not be subject to judicial review unless another statute or rule specifically provides to the contrary.

(n) The Board may assess costs against any Applicant or Declarant who has been sent reasonable notice of a hearing before the Board and who does not appear.

Rule 16
Probationary Licenses

(a) The Board shall have the authority to grant conditional approval of the present good moral character and fitness of an Applicant and to recommend the granting of a Probationary License, after the Applicant meets all other requirements under these Rules, in the following circumstances:

(1) when the Board determines that the Applicant suffers from chemical dependency or has been convicted of, or is on probation for, a first offense of driving while intoxicated under Texas Penal Code §49.04; or

(2) in other circumstances in which, on the record before it, the Board determines that the protection of the public requires the temporary monitoring of the Applicant in question.

(b) The Board shall not have authority to refuse to recommend the granting of a Probationary License to an Applicant who has passed the applicable bar examination solely because the Applicant suffers from chemical dependency or has been convicted for a first offense for driving while intoxicated under Texas Penal Code §49.04.

(c) In any order recommending the issuance of a Probationary License to practice law, the Board shall specify the conditions of the license, which may include, but are not limited to, the following:

(1) prohibiting the use of alcohol or controlled substances;

(2) requiring treatment for chemical dependency;

(3) requiring the individual to practice law under the supervision of an attorney admitted to the Bar;

(4) requiring submission to periodic, random drug testing;

(5) requiring the individual to report periodically to the Board;

(6) requiring suspension, for any portion of the probationary period, of an activity for

which a license to practice law is required;

(7) requiring the individual to reside continuously in Texas during the period of the Probationary License, unless for good cause shown, the Board waives such requirement; or

(8) requiring the individual to take specific actions designed to cure or end any deficiencies in his or her moral character and fitness, as determined by the Board.

(d) Probationary Licenses shall expire as follows:

(1) A Probationary License issued solely because of the Board's determination that the individual suffers from chemical dependency shall expire on the second anniversary of the date on which it is issued, unless temporarily extended hereunder.

(2) Any other Probationary License shall expire on the date specified by the Board in the order recommending issuance of the Probationary License, unless temporarily extended hereunder.

(3) The term of a Probationary License may be temporarily extended, upon the request of the Probationary Licensee, in the event that the normal expiration date falls before the Board has had the opportunity to make a redetermination as provided hereunder.

(e) A Probationary Licensee may apply for a renewal of the Probationary License or for a regular license to practice law, by filing a written request and a Supplemental Investigation Form and the requisite fees, at least 60 days before the expiration date of the Probationary License.

(f) The Board shall require any Probationary Licensee issued a Probationary License because of a determination of chemical dependency, before the redetermination hearing, to submit to an evaluation, at the sole cost of the Probationary Licensee, by a licensed mental health professional designated by the Board.

(g) After a hearing held subject to Rule 15 on the redetermination of the character and fitness of a Probationary Licensee, the Board may:

(1) recommend, upon a finding of the requisite present good moral character and fitness, the issuance of a regular license to practice law in Texas; provided, however, that in any case in which a Probationary License was issued on the basis of chemical dependency, the Board shall not recommend the Probationary Licensee for regular admission until the Board finds that the Probationary Licensee has successfully completed treatment and has been free from chemical dependency for the preceding two years;

(2) recommend, upon a finding that a condition of the Probationary License has been violated:

(A) extension of the Probationary License; or

(B) termination or immediate revocation of the Probationary License.

(h) The Board shall initiate and maintain a working relationship with the Lawyers Assistance Program or similar program of the Bar in order to provide for the evaluation and referral to treatment for those persons issued a Probationary License hereunder. The treatment

and professional evaluation shall be at the sole expense of the Probationary Licensee.

(i) The Board shall initiate and maintain a working relationship with the Bar to coordinate disclosure of information concerning an individual's status as a Probationary Licensee. On request, the Board, in coordination with the Bar, shall inform a member of the public whether a particular individual is a Probationary Licensee. This disclosure may occur via the official website of the Bar or other means reasonably available to members of the public. Any information that forms the basis for the issuance of a Probationary License is confidential, as required by statute.

(j) A person whose Probationary License has been terminated or revoked upon recommendation by the Board must begin the licensure process anew in accordance with the Board order recommending such termination or revocation if the person wishes to attempt re-licensure.

Rule 17
Issuance of License Certificates and Cancellation of License Unlawfully Obtained

(a) Upon an Applicant's becoming entitled to a license under these Rules, the Board must certify the Applicant to the Supreme Court, whose Clerk will issue the corresponding license in the form of a written certificate. The license may be issued only in the name shown on a valid, government-issued identification card, except that a given name may be omitted or represented by an initial if the Applicant so requests in writing. No license may be issued using an alias, assumed name, nickname, or abbreviation of a name.

(b) All law licenses are issued on the condition that the Applicant has faithfully complied with these Rules. If at any time it appears that an Applicant has obtained a license fraudulently or by willful failure to comply with these Rules, after notice and hearing, the Board may recommend to the Supreme Court that the license be withdrawn and canceled, and the name of the license holder stricken from the roll of attorneys.

(c) No license issued under this Rule is valid unless the license holder has paid all required fees and has enrolled in the Bar in compliance with the State Bar Rules.

(d) The license certificate belongs to the Supreme Court and must be surrendered to the Court upon proper demand.

Rule 18
Fees

(a) The following provisions shall govern the fees charged by the Board:

Attorney Application Fee	$700
Check Returned for Insufficient Funds Fee	$25
Examination Fee	$150
Fingerprint Processing Fee	$40
Incomplete Application Fee	$75
Investigation Fee	$150
Foreign Legal Consultant Certification Renewal Fee	$150
Foreign Nation Inquiry Fee	$100
Foreign Trained Application Fee	$700
Laptop Examination Fee	$50
Late Fee for Declaration of Intention to Study Law	$150
Late Fee for Texas Bar Examination	
Feb. by November 1	$150
Feb. by December 1	$300
July by April 1	$150
July by May 1	$300
MBE Transfer Fee	$25
Military Attorney Application Fee	$25
Practice Time Evaluation Fee	$150
Re-Examination Fee	$75
Student Application Fee	$150
Uniform Bar Examination Transfer Fee	$150

(b) No refund or transfer of fees will be made in the event of the withdrawal of any Declaration or Application, nor in the event a determination is made by the Board that the Applicant or Declarant does not meet the requirements imposed under these Rules.

(c) Any fee required under these Rules may be waived or reduced by the Board upon written request and proof of indigence.

Rule 19
Requirements for Participation in Texas Proceedings by a Non-Resident Attorney

(a) A reputable attorney, licensed in another State or in a foreign jurisdiction but not in Texas, who resides outside of Texas may seek permission to participate in the proceedings of any particular cause in a Texas court by complying with the requirements of Texas Government Code Section 82.0361 concerning payment of a non-resident attorney fee to the Board as a mandatory initial requirement. Upon completion of this requirement and receipt of an acknowledgment issued by the Board, the non-resident attorney shall file with the applicable Texas court a written, sworn motion requesting permission to participate in a particular cause. The motion shall contain:

(1) the office address, telephone number, fax number, and email address of the non-resident attorney movant;

(2) the name and State Bar card number of an attorney licensed in Texas, with whom the non-resident attorney will be associated in the Texas proceedings, and that attorney's office address, telephone number, fax number, and email address;

(3) a list of all cases and causes, including cause number and caption, in Texas courts in which the non-resident attorney has appeared or sought leave to appear or participate within the past two years;

(4) a list of jurisdictions in which the non-resident attorney is licensed, including federal courts, and a statement that the non-resident attorney is or is not an active member in good standing in each of those jurisdictions;

(5) a statement that the non-resident attorney has or has not been the subject of disciplinary action by the Bar or courts of any jurisdiction in which the attorney is licensed within the preceding five years, and a description of any such disciplinary actions;

(6) a statement that the non-resident attorney has or has not been denied admission to the courts of any State or to any federal court during the preceding five years;

(7) a statement that the non-resident attorney is familiar with the State Bar Act, the State Bar Rules, and the Texas Disciplinary Rules of Professional Conduct governing the conduct of members of the Bar, and will at all times abide by and comply with the same so long as such Texas proceeding is pending and said Applicant has not withdrawn as counsel therein.

(b) The motion of the non-resident attorney seeking permission to participate in Texas proceedings must be accompanied by motion of the resident practicing Texas attorney with whom the non-resident attorney will be associated in the proceeding of a particular cause. The motion must contain a statement that the resident attorney finds the Applicant to be a reputable attorney and recommends that the Applicant be granted permission to participate in the particular proceeding before the court.

(c) The motion of the non-resident attorney must also be accompanied by the proof of payment or proof of indigency acknowledgment issued by the Board.

(d) The court may examine the non-resident attorney to determine that the non-resident attorney is aware of and will observe the ethical standards required of attorneys licensed

in Texas and to determine whether the non-resident attorney is appearing in courts in Texas on a frequent basis. If the court determines that the non-resident attorney is not a reputable attorney who will observe the ethical standards required of Texas attorneys, that the non- resident attorney has been appearing in courts in Texas on a frequent basis, that the non- resident attorney has been engaging in the unauthorized practice of law in the State of Texas, or that other good cause exists, the court or hearing officer may deny the motion.

(e) If, after being granted permission to participate in the proceedings of any particular cause in Texas, the non-resident attorney engages in professional misconduct as that term is defined by the State Bar Act, the State Bar Rules, or the Texas Disciplinary Rules of Professional Conduct, the court may revoke the non-resident attorney's permission to participate in the Texas proceedings and may cite the non-resident attorney for contempt. In addition, the court may refer the matter to the Grievance Committee of the Bar District in which the court is located.

(f) The filing of a motion under this Rule constitutes submission to the jurisdiction of the Grievance Committee for the District in which the court is located. The county in which the court is located is considered the county of residence of the non-resident attorney for purposes of determining venue in any disciplinary action involving the attorney.

Rule 20
Organizational and Miscellaneous Powers of the Board

(a) Upon completion of the tabulation of grades given on the Texas Bar Examination and approval of such tabulation by the Chairman, the grades shall be released to the examinees in the manner directed by the Board. The Deans of the Law Schools in the State of Texas shall be furnished a list of the candidates passing the Texas Bar Examination after release of results to the individual candidates. Before releasing grades to examinees, no grades shall be given by the Board by telephone to any person, nor shall any Board member or employee of the Board give grades in person to an examinee or anyone inquiring on behalf of an examinee.

(b) Unless the Court designates the member of the Board who shall serve as Chair, the Board shall have authority to select a Chair. The Board shall select other officers from its own membership, assign their respective duties, may delegate power and authority to one or more of its members, and shall have authority to formulate the procedure of the Board.

(c) The Board shall maintain its files on Declarants and Applicants until such time as their destruction is authorized, as follows:

(1) Files in which a regular license has been issued shall be destroyed five years from the date the license was issued.

(2) Files in which a Probationary License has been issued but no regular license has been issued shall be destroyed 10 years from the date of the last formal activity on the file (i.e., petition for redetermination, hearing, order, expiration of last term of Probationary License, issuance of regular license following redetermination hearing, etc.).

(3) Files in which a Declaration, but not an Application, has been filed shall be destroyed five years from the date the Declaration was filed.

(4) Files in which an Application has been filed, but no regular or Probationary License issued, shall be destroyed five years from the date of the last formal activity on the file (i.e., re-application, examination, hearing, petition for redetermination, etc.), after inputting into the Board's computer database pertinent and necessary data contained therein.

(d) Insofar as may be consistent with these Rules, the Board is authorized to make all reasonable regulations, including written interpretations of general application with respect to these Rules or provisions of general application for relevant subjects not covered by these Rules. The Board may also prescribe forms and certificates to be executed by Applicants for admission to the Bar, whether for a first license to practice law or as a practicing attorney of another jurisdiction, or certificates or other forms to be executed by or on behalf of the Board itself.

(e) The Board is given discretion in the interpretation and application of these Rules. For good cause shown to the satisfaction of the Board, upon written request, waivers of specific requirements described in these Rules may be granted, unless it appears that no exceptions are contemplated by the Supreme Court.

(f) The Board may, in conjunction with its investigation of moral character and fitness or the administration of the bar examination, require Declarants and Applicants to furnish a complete set of fingerprints.

(g) The Board may delegate its duties to a panel of the Board or to the staff, as necessary and where not prohibited by law; provided, however, that the Board shall not delegate to staff its authority to make final determinations that an Applicant or Declarant lacks the requisite good moral character and fitness.

(h) The Supreme Court hereby establishes the Board of Law Examiners Fund, into which shall be deposited all fees and monies received and interest earned by the Board and which shall be used by the Board to administer the functions of the Supreme Court and the Board relating to the licensing of lawyers as directed by the Court. The Fund shall be maintained in one or more financial institutions in Texas, as designated by the Board.

(i) The Board shall have full power to contract for the performance of all of its functions, and any person dealing or contracting with the Board shall be conclusively entitled to rely upon the Board's written determination that the expense thus incurred or contracted is for a proper function of the Board.

(j) The disbursement of funds shall be according to such rules, regulations and budgets as the Board may adopt. The Board shall keep a full record of such receipts and disbursements.

Rule 21
Civil Immunity

Without limiting, restricting, or waiving any privilege or immunity otherwise available under Texas or federal law:

(a) The Board and its members, employees, and agents are immune from all civil liability for

damages for conduct and communications occurring in the performance of and within the scope of their official duties relating to the character and fitness qualification, eligibility, examination, monitoring, and licensing of Declarants, Applicants and Probationary Licensees.

(b) Records, statements of opinion, and other information regarding a Declarant, Applicant, or Probationary Licensee communicated without malice to the Board or to its members, employees, or agents by any person, entity, firm, or institution are privileged, and civil suits for damages predicated thereon are barred.

Rule 22
Registration Program for Military Attorneys on Military Assignment in Texas but not Licensed in Texas

§1 General Requirements for Registration and Limited Permission to Practice Law

Upon the Board's approval, a military attorney who is admitted to practice law in a State other than Texas , and who is a full-time, active-duty military officer serving in the office of a Staff Judge Advocate of the United States Air Force, Army, Navy, Marines, or Coast Guard, a Naval Legal Service Office, or a Trial Service Office, located in Texas, may appear as an attorney and practice law before the courts and other tribunals of Texas in any civil proceeding, subject to the conditions and limitations in this Rule and applicable law. This Rule does not preclude a non-resident military attorney's request under Rule 19 to participate in the proceedings of a particular cause in a Texas court.

§2 Specific Requirements

The military attorney must be of good moral character and apply for registration annually by:

(a) filing an application and paying fees in the form and manner that the Board prescribes;

(b) presenting satisfactory proof of admission to practice law and current good standing as a member of the bar in any State;

(c) complying with the training requirements in this Rule and

(d) furnishing any additional information or proof that the Board requires in the course of processing the application.

§3 Training

Permission to practice law under this Rule requires that the military attorney complete at least 15 credit hours of Accredited Continuing Legal Education (CLE) Activity, including a minimum of three hours of legal ethics or professional responsibility, within the first year of registration. The minimum of three hours of legal ethics or professional responsibility must also be completed within each subsequent year of registration. Accredited CLE Activity has the meaning assigned by Article XII of the State Bar Rules.

§4 No Bar Membership or Texas Law License Granted

Military attorneys permitted to practice law under this Rule are not, and shall not represent themselves to be, members of the Bar or licensed to practice law in the State of Texas.

§5 Termination

The military attorney's privilege to practice law under this Rule may be terminated by the Board at any time, with or without cause. In addition, the military attorney's privileges under this Rule shall be terminated when the military attorney ends full-time, active-duty military service as described in Section 1. The military attorney registered under this Rule or the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney shall:

(a) advise the Board as soon as practicable of any change in the military attorney's status that may affect the military attorney's right to practice law under this Rule;

(b) immediately notify each court or tribunal in which the military attorney is involved in a pending civil proceeding when the military attorney is unable to continue to serve as counsel under this Rule; and

(c) immediately obtain substitution of counsel when the military attorney involved in any pending civil proceeding is unable to continue to serve as counsel under this Rule.

§6 Subject-Matter Jurisdiction, Authorized Clients, and Pleading Requirements

A military attorney granted limited permission to practice law under this Rule may, with approval of the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney, represent:

(a) enlisted military personnel in grades E-1 through E-4; and

(b) immediate family members who qualify under armed services regulations as dependents of enlisted military personnel in grades E-1 through E-4 if the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney determines that retaining civilian legal counsel for the matter in controversy would present a substantial financial hardship for the family member involved.

A military attorney granted limited permission to practice law under this Rule may represent other military personnel, as well as their immediate family members who qualify under armed services regulations as their dependents, only if the military attorney receives written approval from the Judge Advocate General of the Army, Navy, Coast Guard, or Air Force, or the Staff Judge Advocate to the Commandant of the Marine Corps, as appropriate. The written authorization must include a determination that retaining civilian legal counsel for the matter in controversy would present a substantial financial hardship for the service member or family member involved.

A military attorney granted limited permission to practice law under this Rule may not demand or receive any compensation, beyond the military attorney's regular pay and allowances, for the legal services provided under this Rule.

The practice of a military attorney under this Rule shall be subject to the limitations and restrictions of 10 U.S.C. § 1044 and the regulations of that attorney's military service and shall be further limited to:

(a) cases arising under all Titles, except Title 3, of the Family Code;

(b) guardianships;

(c) landlord-tenant disputes on behalf of tenants;

(d) consumer-law cases on behalf of consumers;

(e) garnishment defenses;

(f) estate planning and probate matters;

(g) enforcement of rights under the Servicemembers Civil Relief Act;

(h) enforcement of rights under the Uniformed Services Employment and Reemployment Rights Act; and

(i) other cases within the discretion of the court or tribunal before which the civil proceeding is pending, provided that written permission of the court or tribunal is obtained in advance of the appearance.

All pleadings filed in a civil proceeding by a military attorney under this Rule shall expressly disclose that limited permission to practice in Texas has been obtained under this Rule ; include the name, complete address, and telephone number of the military legal office of the military attorney representing the client and of the military attorney's supervisory Staff Judge Advocate or other supervisory military attorney; and include the name, grade, and armed service of the military attorney who is registered under this Rule and providing representation. Upon making an appearance in a civil proceeding, the military attorney shall file a document with the court or other tribunal in which the civil proceeding is pending, designating each individual authorized to accept service of process on the military attorney's behalf and providing the name and complete address of each authorized individual. If the military attorney does not file this document, the military attorney's agent for service of process shall be the supervisory Staff Judge Advocate or supervisory military attorney whose name appears on the military attorney's most recent application filed pursuant to this Rule, or the successor to that office.

§7 Discipline

A military attorney granted limited permission to practice law in Texas under this Rule is subject to the Rules Governing Admission to the Bar of Texas, the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, and any other rules and laws governing the discipline of attorneys admitted to the Bar. The Bar, Supreme Court of Texas, and other Texas courts have jurisdiction over the discipline of the military attorney, regardless of whether the military attorney retains the right to practice in the state, for the military attorney's professional conduct while practicing in this state. This jurisdiction includes, but is not limited to, the authority—concurrent with the Board's authority under Section 5 —to terminate the military attorney's privilege to practice law in Texas under this Rule.

Rule 23
Military Spouse Temporary License

§1 Eligibility

A spouse ("Military Spouse") of an active-duty military service member who has been ordered stationed in Texas is eligible for a three-year temporary license to practice law in Texas if the Military Spouse:

(a) is admitted to practice law in another State;

(b) is in good standing in all jurisdictions where admitted and an active member of the bar in

at least one State;

(c) is not currently subject to discipline or the subject of a pending disciplinary matter in any jurisdiction;

(d) has never been disbarred or resigned in lieu of discipline in any jurisdiction;

(e) has never had an application for admission to any jurisdiction denied on character or fitness grounds;

(f) meets the law study requirements of Rule 3 or is exempted under Rule 13 §§ 3, 4, or 5;

(g) has satisfactorily completed the Texas Law Component; and

(h) is residing in Texas.

§2 Application

A Military Spouse must submit to the Board:

(a) an application for temporary licensure on a form prescribed by the Board;

(b) a copy of the service member's military orders;

(c) a certificate of good standing from the entity with final jurisdiction over professional discipline in each jurisdiction of admission; and

(d) any other evidence demonstrating that the Military Spouse satisfies the eligibility requirements of Section 1 that the Board may require.

§3 Certification to Supreme Court

If the Board determines that a Military Spouse has satisfied the requirements of Sections 1 and 2, the Board must recommend to the Supreme Court the temporary licensure of the Military Spouse.

§4 Fee Waiver

A Military Spouse is not required to pay:

(a) the fees required by Rule 18; or

(b) the licensing fee to the Supreme Court Clerk.

Appendix Fee Schedule

Declaration of Intention to Study Law

Investigation Fee	$150
Fingerprint Processing	$40
Total	$190

Exam Application for In-State Law Students

Application Fee	$150
Examination Fee	$150
Total	$300

Exam Application for Out of State Law Students

Application Fee	$150
Examination Fee	$150
Investigation Fee	$150
Fingerprint Processing	$40
Total	$490

Exam Application for Attorneys Licensed in Another State

Application Fee	$700
Examination Fee	$150
Investigation Fee	$150
Fingerprint Processing	$40
Total	$1040

Exam Application for Foreign-Trained Applicants

Application Fee	$700
Examination Fee	$150
Investigation Fee	$150
Fingerprint Fee	$40
Foreign Nation Inquiry Fee	$100
Total	$1140

In-State Law Student Admission by UBE Transfer

Application Fee	$150
UBE Transfer Fee	$150
Total	$300

Out of State Law Student Admission by UBE Transfer

Application Fee	$150
UBE Transfer Fee	$150
Investigation Fee	$150
Fingerprint Processing	$40
Total	$490

Attorney Admission by UBE Transfer

Application Fee	$700
UBE Transfer Fee	$150
Investigation Fee	$150
Fingerprint Fee	$40
Total	$1040

Foreign-Trained Applicants Admission by UBE Transfer

Application Fee	$700
UBE Transfer Fee	$150
Investigation Fee	$150
Fingerprint Fee	$40
Foreign Nation Inquiry Fee	$100
Total	$1140

Attorney Admission Without Examination

Application Fee	$700
Investigation Fee	$150
Fingerprint Fee	$40
Total	$890

Exam Application for Re-Applicants

Application Fee & Investigation Fee	$245
Re-Examination Fee	$75
Total	$320

Application for Redetermination of Character & Fitness

Supplemental Investigation Fee	$150
Fingerprint Processing	$40
Total	$190

Miscellaneous Fees

Late Fee February Exam App. filed by November 1	$150
Late Fee February Exam App. filed by December 1	$300
Late Fee July Exam App. filed by April 1	$150
Late Fee July Exam App. filed by May 1	$300
Laptop Exam Fee	$50
Incompleteness Fee	$75
MBE Transfer	$25
Check Returned for Insufficient Funds	$25

Foreign Legal Consultant

Application Fee	$700
Investigation Fee	$150
Fingerprint Processing	$40
Foreign Nation Inquiry Fee	$100
Total	$990

Foreign Legal Consultant Renewal

Application Fee	$150

Military Attorney Application

Application Fee	$25

Military Attorney Application Renewal

Application Fee	$25

Texas Constitution
Article II
The Powers of Government

Tex. Const. § 1. Division of powers; three separate departments; exercise of power properly attached to other departments

Sec. 1. The powers of the Government of the State of Texas shall be divided into three distinct departments, each of which shall be confided to a separate body of magistracy, to wit: Those which are Legislative to one; those which are Executive to another, and those which are Judicial to another; and no person, or collection of persons, being of one of these departments, shall exercise any power properly attached to either of the others, except in the instances herein expressly permitted.

Government Code
Title 2. Judicial Branch
Subtitle G. Attorneys
Chapter 82. Licensing of Attorneys
Subchapter A. Board of Law Examiners

Tex. Gov't Code §82.001. Board of Law Examiners

(a) The Board of Law Examiners is composed of nine attorneys who have the qualifications required of members of the supreme court.

(b) The supreme court shall appoint the members of the board for staggered six-year terms, with the terms of one-third of the members expiring May 31 of each odd-numbered year. A member is subject to removal by the supreme court as provided by Section 82.0021.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Tex. Gov't Code §82.002. Conflict of Interest

(a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the Board of Law Examiners and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), and its subsequent amendments, if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of board interest; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of board interest.

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's

activities for compensation on behalf of a profession related to the operation of the board.

(d) A member of the board who has a financial interest, other than a remote financial interest, in a decision pending before the board is disqualified from participating in the decision.

Tex. Gov't Code §82.0021. Removal of Board Members

(a) It is a ground for removal from the Board of Law Examiners that a member:

(1) does not have, at the time of taking office, the qualifications required by Section 82.001;

(2) does not maintain during service on the board the qualifications required by Section 82.001;

(3) is ineligible for membership under Section 82.002;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board;

(6) is incompetent; or

(7) is inattentive to the member's duties.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a board member exists.

(c) If the executive director of the board has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the supreme court that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the supreme court that a potential ground for removal exists.

Tex. Gov't Code §82.003. Open Records and Open Meetings

(a) Except as provided by this section, the Board of Law Examiners is subject to Chapter 552 and Chapter 551.

(b) Examination questions that may be used in the future and examinations other than the one taken by the person requesting it are exempt from disclosure.

(c) Board deliberations, hearings, and determinations relating to moral character and fitness of an applicant shall be closed to the public, and records relating to these subjects are confidential. On the written request of an applicant, however, the applicant is entitled to:

(1) have the applicant's character and fitness hearing open to persons designated by the applicant; or

(2) have disclosed to the applicant records relating to the applicant's own moral character and fitness unless the person who supplied the information has requested

that it not be disclosed.

(d) The board shall not inquire of a person who supplies information relating to an applicant's moral character and fitness whether the person objects to disclosure nor inform the person of the right to object.

(e) Board deliberations, hearings, and determinations relating to a request by an applicant who has a disability for testing accommodations under Section 82.0272 on the bar examination shall be closed to the public, and records relating to that subject are confidential.

Tex. Gov't Code §82.004. Board Duties

(a) The Board of Law Examiners, acting under instructions of the supreme court as provided by this chapter, shall determine the eligibility of candidates for examination for a license to practice law in this state.

(b) The board shall examine each eligible candidate as to the candidate's qualifications to practice law.

(c) The board may not recommend any person for a license to practice law unless the person has shown to the board, in the manner prescribed by the supreme court, that the person is of the moral character and of the capacity and attainment proper for that person to be licensed.

(d) On written request of an applicant who fails an examination administered by the board, the board shall give the applicant an oral or written analysis of the applicant's performance on the examination. The applicant may record an oral analysis.

(e) In each city in which an examination is administered, the board shall provide facilities that enable persons having physical, mental, or developmental disabilities to take the examination.

Tex. Gov't Code §82.005. Board Compensation

(a) The supreme court shall set the compensation of each member of the Board of Law Examiners, excluding reasonable and necessary actual expenses, at an amount that does not exceed $30,000 a year.

(b) Subchapter B, Chapter 659, does not apply to the compensation set under this section.

Tex. Gov't Code §82.006. Sunset Provision

The Board of Law Examiners is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished September 1, 2029.

Tex. Gov't Code §82.007. Career Ladder; Annual Performance Evaluations

(a) The executive director of the Board of Law Examiners or the executive director's designee shall develop an intraagency career ladder program. The program shall require intraagency postings of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for board employees must be based on the system established under this subsection.

Tex. Gov't Code §82.0071. Equal Employment Opportunity Policy

(a) The executive director of the Board of Law Examiners or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must be:

(1) updated annually;

(2) reviewed by the Commission on Human Rights for compliance with Subsection (b)(1); and

(3) filed with the governor's office and the supreme court.

Tex. Gov't Code §82.0072. Standards of Conduct

The executive director of the Board of Law Examiners or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Tex. Gov't Code §82.0073. Separation of Responsibilities; Delegation.

(a) The Board of Law Examiners shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

(b) Subject to supreme court rules, the Board of Law Examiners may delegate routine decisions to the executive director of the board, including waiver requests.

Tex. Gov't Code § 82.008. Public Information

(a) The Board of Law Examiners shall prepare information of public interest describing the functions of the board. The board shall make the information available to the public and appropriate agencies.

(b) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board. However, the board may prohibit public testimony that would reveal the examination questions described by Section 82.003(b) or would relate to the moral character or fitness of an applicant for a license.

Tex. Gov't Code §82.009. Program Accessibility

The Board of Law Examiners shall prepare and maintain a written plan that describes how a person who has a physical, mental, or developmental disability can be provided reasonable access to the board's programs.

Tex. Gov't Code §82.010. Training Program Required

(a) A person who is appointed to and qualifies for office as a member of the Board of Law Examiners may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the law governing board operations;

(2) the programs, functions, rules, and budget of the board;

(3) the results of the most recent formal audit of the board;

(4) the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and other laws applicable to members of a state policymaking body in performing their duties; and

(B) any applicable ethics policies adopted by the Board of the Texas Ethics Commission.

(5) The executive director of the Board of Law Examiners shall create a training manual that includes the information required by subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board. On receipt of the training manual, each member of the board shall sign and submit to the executive director a statement acknowledging receipt of the training manual.

Tex. Gov't Code §82.011. Written Complaints

(a) The Board of Law Examiners shall maintain a file on each written complaint filed with the board. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint was received by the board;

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

(b) The board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the board's policies and procedures relating to complaint investigation and resolution.

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the

status of the investigation unless the notice would jeopardize an undercover investigation.

Tex. Gov't Code §82.012. [Repealed effective June 19, 2009.]

Tex. Gov't Code §82.013. Effective Use of Technology

The Board of Law Examiners shall develop and implement a policy requiring the executive director and board employees to research and propose appropriate technological solutions to improve the board's ability to perform its functions. The technological solutions must:

(1) ensure that the public is able to easily find information about the board on the Internet;

(2) ensure that persons who want to use the board's services are able to:

(A) interact with the board through the Internet; and

(B) access any service that can be provided effectively through the Internet; and

(3) be cost-effective and developed through the board's planning processes.

Subchapter B. Licensing of Attorneys

Tex. Gov't Code §82.021. Supreme Court Authority

Only the supreme court may issue licenses to practice law in this state as provided by this chapter. The power may not be delegated.

Tex. Gov't Code §82.022. Supreme Court Rulemaking

(a) The supreme court may adopt rules on eligibility for examination for a license to practice law and on the manner in which the examination is conducted. The rules may include:

(1) provisions to ensure:

(A) good moral character of each candidate for a license;

(B) adequate prelegal study and attainment; and

(C) adequate study of the law for at least two years, covering the course of study prescribed by the supreme court or the equivalent of that course;

(2) the legal topics to be covered by the course of study and by the examination;

(3) the times and places for holding the examination;

(4) the manner of conducting the examination;

(5) the grades necessary for licensing; and

(6) any other matter consistent with this chapter desirable to make the issuance of a license to practice law evidence of good character and fair capacity and attainment and proficiency in the knowledge of law.

(a-1) In adopting rules on eligibility for examination for a license to practice law, the supreme court shall ensure that no rule violates Chapter 110, Civil Practice and Remedies Code.

(b) The supreme court shall adopt rules necessary to administer its functions and to govern the administration of the Board of Law Examiners' functions relating to the licensing of lawyers.

Tex. Gov't Code §82.023. Declaration of Intention to Study Law

(a) Each person intending to apply for admission to the bar must file with the Board of Law Examiners, on a form provided by the board, a declaration of intention to study law.

(b) The form for the declaration must clearly identify those conditions of character and fitness that may be investigated by the board and that may result in the denial of the declarant's application to take the examination.

(c) The board shall notify each first-year law student who files the declaration not later than the date established by supreme court rule of the board's decision as to the student's acceptable character and fitness. The board shall notify all other declarants not later than the date established by supreme court rule whether or not it has determined that the declarant has acceptable character and fitness.

(d) If the board determines that an applicant does not have acceptable character and fitness, the notice of the decision must be accompanied by an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(e) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to meet with representatives of the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar and may require the applicant to submit to evaluation by a licensed mental health professional designated by this board. The Board may seek advice and consultation from the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar in designating mental health professionals qualified to conduct evaluations of declarants who may suffer from chemical dependency.

(f) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar.

Tex. Gov't Code §82.024. Law Study Requirements; Eligibility for Examination

A person who has completed the prescribed study in an approved law school has satisfied the law study requirements for taking the examination for a license to practice law and is eligible to take the bar examination. An approved law school is one that is approved by the supreme court for the time period designated by the court as maintaining the additional standards to retain approval.

Tex. Gov't Code §82.0241. Unaccredited Schools of Law

All matters relating to licensing of persons who were enrolled at unaccredited schools of law in this state are within the exclusive jurisdiction of the Supreme Court of the State of Texas.

Tex. Gov't Code §82.0242. [This section expired September 1, 2004.]
Tex. Gov't Code §82.025. [Repealed effective September 1, 2003.]
Tex. Gov't Code §82.026. [Repealed effective September 1, 1991.]

Tex. Gov't Code §82.027. Application for Examination

(a) Each applicant to take a bar examination must file an application with the Board of Law Examiners not later than the date established by supreme court and pay the fee established by supreme court rule.

(b) The application must include a statement certifying that since the filing of the applicant's original declaration of intention to study law, the applicant:

(1) has not been formally charged with any violation of law, excluding:

(A) cases that have been dismissed for reasons other than technical defects in the charging instrument;

(B) cases in which the applicant has been found not guilty;

(C) minor traffic violations;

(D) cases in which the record of arrest or conviction was expunged by court order;

(E) pardoned offenses; and

(F) Class C misdemeanors;

(2) has not been charged with fraud in any legal proceeding; and

(3) has not been involved in civil litigation or bankruptcy proceedings that reasonably bear on the applicant's fitness to practice law.

(c) On a showing of good cause or to prevent hardship, the board may permit an applicant to file an application with the board not later than the date established by supreme court rule on payment of applicable late fees established by supreme court rule.

(d) The filing deadlines and late fees do not apply to an applicant who failed the preceding bar examination. Any such applicant may take the next examination administered on filing an application with the board and paying the required examination fees not later than the date established by supreme court rule established by supreme court rule.

Tex. Gov't Code §82.0271. Residency or Citizenship Status of Applicant

A person who has applied to take the bar examination may not be denied admission to the bar examination based on the applicant's lack of:

(1) permanent residency in the United States; or

(2) United States citizenship.

Tex. Gov't Code §82.0272. Testing Accommodations for Applicants with Disabilities

An applicant who has a physical, mental, or developmental disability may request that the Board of Law Examiners provide testing accommodations on the bar examination. An applicant whose request is denied may appeal the decision to a committee appointed by, and composed of three or more members of, the board.

Tex. Gov't Code §82.028. Moral Character and Fitness of Applicant

(a) The Board of Law Examiners may conduct an investigation of the moral character and fitness of each applicant for a license.

(b) The board may contract with public or private entities for investigative services relating

to the moral character and fitness of applicants.

(c) The board may not recommend denial of a license and the supreme court may not deny a license to an applicant because of a deficiency in the applicant's moral character or fitness unless:

(1) the board finds a clear and rational connection between a character trait of the applicant and the likelihood that the applicant would injure a client or obstruct the administration of justice if the applicant were licensed to practice law; or

(2) the board finds a clear and rational connection between the applicant's present mental or emotional condition and the likelihood that the applicant will not discharge properly the applicant's responsibilities to a client, a court, or the legal profession if the applicant is licensed to practice law.

(d) The board shall limit its investigation under this section to those areas clearly related to the applicant's moral character and present fitness to practice law.

Tex. Gov't Code §82.029. Release of Bar Examination Results

(a) On request of a law school that is conducting research on the achievement of the law school's students or graduates on the Texas bar examination, the Board of Law Examiners shall provide the law school with information concerning the results of a bar examination and the achievement of particular applicants on the examination, including examination results disaggregated by section or portion of the examination and any relevant statistics related to the results of the examination.

(b) An applicant may request that the board not release the applicant's identity to a law school that requests information under Subsection (a). The board shall grant the applicant's request if the applicant:

(1) sends the request to the board by certified mail or a comparable mailing method that provides proof of delivery; and

(2) makes the request before the applicant takes the bar examination.

(c) A law school that receives information from the board under Subsection (a) is subject to any restriction on the release of the information under federal or state law.

(d) Notwithstanding any other law, information that the board provides to a law school under Subsection (a) is confidential and may not be disclosed under any law related to open records or public information.

Tex. Gov't Code §82.0291. [This section expired January 1, 2005.]

Tex. Gov't Code §82.030. Board Assessment of Moral Character and Fitness

(a) The Board of Law Examiners shall assess each applicant's moral character and fitness based on:

(1) the investigation of character and fitness performed after the filing of the declaration of intention to study law; and

(2) the filing of the application required by Section 82.027 and the board's investigation into the accuracy and completeness of the application.

(b) If the board determines that the applicant does not have the requisite good moral character and fitness, the board, not later than the 150th day after the day on which the application is filed, shall furnish the applicant an analysis of the character investigation that specifies in detail the results of the investigation. The analysis must include an objective list of actions the applicant may take to become qualified for a license to practice law.

(c) If the board determines that an applicant may suffer from chemical dependency, the board shall require the applicant to submit to evaluation by a licensed mental health professional designated by the board. The board may seek advice and consultation from the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the state bar in designating mental health professionals qualified to conduct evaluations of applicants who may suffer from chemical dependency.

(d) If the board determines that an applicant suffers from chemical dependency, the board shall assist the applicant in working with the Lawyers' Assistance Program of the State Bar of Texas or a similar program of the State Bar in designating mental health professionals qualified to conduct evaluations of applicants who may suffer from chemical dependency.

(e) The board may not deny an applicant the opportunity to take the bar examination solely because the applicant:

(1) suffers or appears to suffer from chemical dependency; or

(2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(f) Repealed effective September 1, 2017.

(g) Subject to supreme court adoption by rule, the board shall define "chemical dependency."

Tex. Gov't Code §82.031. [Repealed effective September 1, 2003.]
Tex. Gov't Code §82.032. [Repealed effective September 1, 2003.]

Tex. Gov't Code §82.033. Fees

(a) The supreme court shall set the fee for the investigation of the moral character and fitness of each candidate at an amount that does not exceed $150. The candidate must pay the investigation fee to the Board of Law Examiners at the time it is requested by the board.

(b) The supreme court shall set the fee for any examination given by the board at an amount that does not exceed $150. The candidate must pay the fee to the board at the time the candidate applies for examination.

(c) The supreme court may set an application fee for foreign attorneys at an amount that does not exceed $700.

(d) The supreme court may set reasonable fees for additional services provided by the board, but the fee for any single additional service, other than the late fee for an examination

application, may not exceed $150.

(e) The fees set by the supreme court must be sufficient to pay all costs of the board, including staff salaries, compensation to members of the board, and costs of investigation and administering the examinations, so that state general revenue funds are not necessary to operate the board.

(f) The board may adopt rules that provide for waiving or lowering for indigent persons a fee required by this section.

Tex. Gov't Code §82.034. Use of Funds

Fees received by the Board of Law Examiners shall be deposited in a fund established by the supreme court. The fund may be used only to administer the functions of the supreme court and the board relating to the licensing of lawyers. The fund shall be used as directed by the supreme court and under supreme court rules.

Tex. Gov't Code §82.035. Audit; Financial Report

(a) The financial transactions of the Board of Law Examiners are subject to audit by the state auditor in accordance with Chapter 321.

(b) The board shall file annually with the supreme court, the governor, and the presiding officer of each house of the legislature a copy of the annual financial report prepared by the board under Section 2101.011.

Tex. Gov't Code §82.036. Foreign Attorneys

The supreme court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this state as it shall deem proper and just. All such attorneys shall be required to furnish satisfactory proof as to good moral character.

Tex. Gov't Code §82.0361. Nonresident Attorney Fee

(a) In this section, "nonresident attorney" means a person who resides in and is licensed to practice law in another state but who is not a member of the State Bar of Texas.

(b) Except as provided by Subsection (e), a nonresident attorney requesting permission to participate in proceedings in a court in this state shall pay a fee of $250 for each case in which the attorney is requesting to participate. The attorney shall pay the fee to the Board of Law Examiners before filing with the applicable court a motion requesting permission to participate in proceedings in that court as provided by rules adopted by the supreme court.

(c) Fees under this section shall be collected in the same manner as other fees collected by the Board of Law Examiners. The board shall remit the fees collected under this section to the comptroller not later than the 10th day after the end of each calendar quarter.

(d) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.

(e) The supreme court may adopt rules to waive or reduce the fee required by this section for a nonresident attorney who seeks to represent an indigent person in proceedings in a court in this state.

(f) A nonresident attorney who files a motion requesting permission to participate in proceedings in a court in this state shall provide to that court proof of payment of the fee required by this section. The supreme court by rule shall prescribe the method of proof.

Tex. Gov't Code §82.037. Oath of Attorney

(a) Each person admitted to practice law shall, before receiving a license, take an oath that the person will:
  (1) support the constitutions of the United States and this state;
  (2) honestly demean oneself in the practice of law;
  (3) discharge the attorney's duty to the attorney's client to the best of the attorney's ability; and
  (4) conduct oneself with integrity and civility in dealing and communicating with the court and all parties.

(b) The oath shall be endorsed on the license, subscribed by the person taking the oath, and attested by the officer administering the oath.

Tex. Gov't Code §82.038. Probationary License for Applicant Suffering from Chemical Dependency

(a) If, after a moral character and fitness assessment, the Board of Law Examiners determines that the applicant suffers from chemical dependency, the board shall notify the applicant of its determination and of the applicant's rights under this section.

(b) To obtain judicial review of the board's determination that the applicant suffers from chemical dependency, an applicant must file a petition in the district court of Travis County before the 60th day after the date that the board delivers notice of its determination. The petition must name the board as a defendant and be served on the executive director of the board. Before the date on which the applicant may obtain a default judgment against the board, the board shall file with the district court a certified record of the proceedings before the board.

(c) A party is not entitled to a jury in a judicial review of the board's determination that an applicant suffers from chemical dependency. The court may not substitute its judgment for that of the board as to the weight of the evidence on questions submitted to the board's discretion but shall affirm the board's decision if the decision is reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole.

(d) The board may not deny a person who successfully takes the bar examination a probationary license to practice law solely because the person:
  (1) suffers from chemical dependency; or
  (2) has been convicted of or is on community supervision for a first offense of operating a motor vehicle while intoxicated under Section 49.04, Penal Code, or intoxication assault committed while operating a motor vehicle under Section 49.07, Penal Code.

(e) The board shall specify the conditions of a probationary license to practice law, which

must be designed to protect the public from the potential harm the person might cause. Conditions of a probationary license may include one or more of the following:

(1) prohibiting the person from using alcohol or controlled substances;

(2) treatment for chemical dependency;

(3) supervision of the person's work by a licensed attorney;

(4) submissions to periodic drug testing;

(5) periodic reporting by the person to the board; or

(6) suspension, for a portion of the probationary period, of an activity for which a license to practice law is required.

(f) A probationary license issued under this section expires on the second anniversary of the date on which the license is issued. A person who holds a probationary license may apply for a renewal of the probationary license or for a regular license to practice law. The board, after redetermination of the character and fitness of a person who holds a probationary license, may recommend to the supreme court that it grant the person a regular license to practice law. The redetermination must include an evaluation of the person by a treatment facility. The board may not recommend to the supreme court that the person be granted a regular license to practice law unless the board finds that the person has successfully completed treatment and has been free from chemical dependency for the preceding two years.

(g) The supreme court shall adopt rules under which the board and the State Bar of Texas jointly develop and fund a program for evaluation and referral to treatment for persons who have been issued a probationary license under this section.

(h) A probationary license may be immediately revoked if the person violates a condition of probation imposed by the board.

(i) On request, the board in coordination with the State Bar of Texas shall inform a member of the public whether a particular person holds a probationary license. Any information that forms the basis for the issuance of the probationary license is confidential.

(j) In this section:

(1) "Chemical dependency" has the meaning provided by supreme court rule adopted under Section 82.030.

(2) "Controlled substance," "treatment facility," and "treatment" have the meanings assigned by Section 462.001, Health and Safety Code.

Tex. Gov't Code §82.039. Licensing Guidelines

(a) To assist the Board of Law Examiners in making consistent and fair determinations related to the licensing of attorneys in this state, the board shall develop specific guidelines for:

(1) determining the moral character and fitness of license applicants;

(2) overseeing probationary license holders; and

(3) granting waiver requests.

(b) The Board of Law Examiners shall develop the guidelines required under Subsection (a) based on the board's past decisions and on any other criteria the board considers

necessary. The board is not required to take any specific action provided in the guidelines.

Title 4. Executive Branch
Subtitle B. Law Enforcement and Public Protection
Chapter 411. Department of Public Safety of the State of Texas
Subchapter F. Criminal History Record Information
(excerpts pertaining to Board of Law Examiners)

§ 411.0765. Application of Subchapter

(a) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter to the following noncriminal justice agencies or entities only: (3) to an agency or entity listed in Subsection (b)

(b) A criminal justice agency may disclose criminal history record information that is the subject of an order of nondisclosure of criminal history record information under this subchapter to the following noncriminal justice agencies or entities only: (5) the Board of Law Examiners.

Tex. Gov't Code § 411.100. Access to Criminal History Record Information: Board of Law Examiners and State Bar of Texas

(a) The Board of Law Examiners is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who is an applicant to take a bar examination.

(a-1) The State Bar of Texas is entitled to obtain:

(1) from the department, criminal history record information maintained by the department that relates to a person who is a member of the state bar; or

(2) from the Board of Law Examiners, criminal history record information obtained under Subsection (a).

(b) Criminal history record information obtained under Subsection (a) or (a-1) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(c) Immediately following the decision of the Board of Law Examiners on recommending an applicant, the board shall collect and make accessible to the State Bar of Texas all criminal history record information obtained by the board that relate to that applicant.

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 42A. COMMUNITY SUPERVISION

Crim. P. Art. 42A.054. LIMITATION ON JUDGE-ORDERED COMMUNITY SUPERVISION

(a) Article 42A.053 does not apply to a defendant adjudged guilty of an offense under:

(1) Section 15.03, Penal Code, if the offense is punishable as a felony of the first

degree;

(2) Section 19.02, Penal Code (Murder);

(3) Section 19.03, Penal Code (Capital Murder);

(4) Section 20.04, Penal Code (Aggravated Kidnapping);

(5) Section 20A.02, Penal Code (Trafficking of Persons);

(6) Section 20A.03, Penal Code (Continuous Trafficking of Persons);

(7) Section 21.11, Penal Code (Indecency with a Child);

(8) Section 22.011, Penal Code (Sexual Assault);

(9) Section 22.021, Penal Code (Aggravated Sexual Assault);

(10) Section 22.04(a)(1), Penal Code (Injury to a Child, Elderly Individual, or Disabled Individual), if:

(A) the offense is punishable as a felony of the first degree; and

(B) the victim of the offense is a child;

(11) Section 29.03, Penal Code (Aggravated Robbery);

(12) Section 30.02, Penal Code (Burglary), if:

(A) the offense is punishable under Subsection (d) of that section; and

(B) the actor committed the offense with the intent to commit a felony under Section 21.02, 21.11, 22.011, 22.021, or 25.02, Penal Code;

(13) Section 43.04, Penal Code (Aggravated Promotion of Prostitution);

(14) Section 43.05, Penal Code (Compelling Prostitution);

(15) Section 43.25, Penal Code (Sexual Performance by a Child);

(16) Chapter 481, Health and Safety Code, for which punishment is increased under:

(A) Section 481.140 of that code (Use of Child in Commission of Offense); or

(B) Section 481.134(c), (d), (e), or (f) of that code (Drug-free Zones) if it is shown that the defendant has been previously convicted of an offense for which punishment was increased under any of those subsections; or

(17) Section 481.1123, Health and Safety Code (Manufacture or Delivery of Substance in Penalty Group 1-B), if the offense is punishable under Subsection (d), (e), or (f) of that section.

Crim P. Art. 42A.111. DISMISSAL AND DISCHARGE

(a) On expiration of a period of deferred adjudication community supervision imposed under this subchapter, if the judge has not proceeded to an adjudication of guilt, the judge shall dismiss the proceedings against the defendant and discharge the defendant.

(b) The judge may dismiss the proceedings and discharge a defendant before the expiration of the period of deferred adjudication community supervision if, in the judge's opinion, the best interest of society and the defendant will be served, except that the judge may not dismiss the proceedings and discharge a defendant charged with an offense requiring the defendant to register as a sex offender under Chapter 62.

(c) Except as provided by Section 12.42(g), Penal Code, a dismissal and discharge under this article may not be considered a conviction for the purposes of disqualifications or disabilities imposed by law for conviction of an offense.

(c-1) Subject to Subsection (d), an offense for which the defendant received a dismissal and discharge under this article may not be used as grounds for denying issuance of a professional or occupational license or certificate to, or suspending or revoking the professional or occupational license or certificate of, an individual otherwise entitled to or qualified for the license or certificate.

(d) For any defendant who receives a dismissal and discharge under this article:

(1) on conviction of a subsequent offense, the fact that the defendant previously has received deferred adjudication community supervision is admissible before the court or jury for consideration on the issue of penalty;

(2) if the defendant is an applicant for or the holder of a license under Chapter 42, Human Resources Code, the Department of Family and Protective Services may consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license under that chapter;

(3) if the defendant is an applicant for or the holder of a license to provide mental health or medical services for the rehabilitation of sex offenders, the Council on Sex Offender Treatment may consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license issued by that council; and

(4) if the defendant is an applicant for or the holder of a professional or occupational license or certificate, the licensing agency may consider the fact that the defendant previously has received deferred adjudication community supervision in issuing, renewing, denying, or revoking a license or certificate if:

(A) the defendant was placed on deferred adjudication community supervision for an offense:

(i) listed in Article 42A.054(a);

(ii) described by Article 62.001(5) or (6);

(iii) committed under Chapter 21 or 43, Penal Code; or

(iv) related to the activity or conduct for which the person seeks or holds the license;

(B) the profession for which the defendant holds or seeks a license or certificate involves direct contact with children in the normal course of official duties or duties for which the license or certification is required; or

(C) the defendant is an applicant for or the holder of a license or certificate issued under Chapter 1701, Occupations Code.

(e) A judge who dismisses the proceedings against a defendant and discharges the defendant under this article:

(1) shall provide the defendant with a copy of the order of dismissal and discharge; and

(2) if the judge determines that the defendant is or may become eligible for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, shall, as applicable:

(A) grant an order of nondisclosure of criminal history record information to the

defendant;

(B) inform the defendant of the defendant's eligibility to receive an order of nondisclosure of criminal history record information without a petition and the earliest date on which the defendant is eligible to receive the order; or

(C) inform the defendant of the defendant's eligibility to petition the court for an order of nondisclosure of criminal history record information and the earliest date the defendant is eligible to file the petition for the order.

Added by Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 1.01, eff. January 1, 2017.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.012(c), eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 638 (H.B. 757), Sec. 1, eff. September 1, 2021.

Crim. P. Art. 62.001. DEFINITIONS

In this chapter:

(5) "Reportable conviction or adjudication" means a conviction or adjudication, including an adjudication of delinquent conduct or a deferred adjudication, that, regardless of the pendency of an appeal, is a conviction for or an adjudication for or based on:

(A) a violation of Section 21.02 (Continuous sexual abuse of young child or disabled individual), 21.09 (Bestiality), 21.11 (Indecency with a child), 22.011 (Sexual assault), 22.021 (Aggravated sexual assault), or 25.02 (Prohibited sexual conduct), Penal Code;

(B) a violation of Section 43.04 (Aggravated promotion of prostitution), 43.05 (Compelling prostitution), 43.25 (Sexual performance by a child), or 43.26 (Possession or promotion of child pornography), Penal Code;

(B-1) a violation of Section 43.021 (Solicitation of Prostitution), Penal Code, if the offense is punishable as a felony of the second degree;

(C) a violation of Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the actor committed the offense or engaged in the conduct with intent to violate or abuse the victim sexually;

(D) a violation of Section 30.02 (Burglary), Penal Code, if the offense or conduct is punishable under Subsection (d) of that section and the actor committed the offense or engaged in the conduct with intent to commit a felony listed in Paragraph (A) or (C);

(E) a violation of Section 20.02 (Unlawful restraint), 20.03 (Kidnapping), or 20.04 (Aggravated kidnapping), Penal Code, if, as applicable:

(i) the judgment in the case contains an affirmative finding under Article 42.015; or

(ii) the order in the hearing or the papers in the case contain an affirmative finding that the victim or intended victim was younger than 17 years of age;

(F) the second violation of Section 21.08 (Indecent exposure), Penal Code, but not if the second violation results in a deferred adjudication;

(G) an attempt, conspiracy, or solicitation, as defined by Chapter 15, Penal Code, to commit an offense or engage in conduct listed in Paragraph (A), (B), (C), (D), (E),

(K), or (L);

(H) a violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (B-1), (C), (D), (E), (G), (J), (K), or (L), but not if the violation results in a deferred adjudication;

(I) the second violation of the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice for or based on the violation of an offense containing elements that are substantially similar to the elements of the offense of indecent exposure, but not if the second violation results in a deferred adjudication;

(J) a violation of Section 33.021 (Online solicitation of a minor), Penal Code;

(K) a violation of Section 20A.02(a)(3), (4), (7), or (8) (Trafficking of persons), Penal Code; or

(L) a violation of Section 20A.03 (Continuous trafficking of persons), Penal Code, if the offense is based partly or wholly on conduct that constitutes an offense under Section 20A.02(a)(3), (4), (7), or (8) of that code.

(6) "Sexually violent offense" means any of the following offenses committed by a person 17 years of age or older:

(A) an offense under Section 21.02 (Continuous sexual abuse of young child or disabled individual), 21.11(a)(1) (Indecency with a child), 22.011 (Sexual assault), or 22.021 (Aggravated sexual assault), Penal Code;

(B) an offense under Section 43.25 (Sexual performance by a child), Penal Code;

(C) an offense under Section 20.04(a)(4) (Aggravated kidnapping), Penal Code, if the defendant committed the offense with intent to violate or abuse the victim sexually;

(D) an offense under Section 30.02 (Burglary), Penal Code, if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A) or (C) of Subdivision (5); or

(E) an offense under the laws of another state, federal law, the laws of a foreign country, or the Uniform Code of Military Justice if the offense contains elements that are substantially similar to the elements of an offense listed under Paragraph (A), (B), (C), or (D).

Texas Penal Code
CHAPTER 21. SEXUAL OFFENSES

Penal Code Sec. 21.01. DEFINITIONS

In this chapter:

(1) "Deviate sexual intercourse" means:

(A) any contact between any part of the genitals of one person and the mouth or anus of another person; or

(B) the penetration of the genitals or the anus of another person with an object.

(2) "Sexual contact" means, except as provided by Section 21.11 or 21.12, any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(4) "Spouse" means a person to whom a person is legally married under Subtitle A, Title 1, Family Code, or a comparable law of another jurisdiction.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 373, ch. 168, Sec. 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 203, ch. 96, Sec. 3, eff. Sept. 1, 1981; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 739, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.124, eff. September 1, 2005.
Acts 2021, 87th Leg., R.S., Ch. 631 (H.B. 246), Sec. 1, eff. September 1, 2021.

Penal Code Sec. 21.02. CONTINUOUS SEXUAL ABUSE OF YOUNG CHILD OR DISABLED INDIVIDUAL

(a) In this section:

(1) "Child" has the meaning assigned by Section 22.011(c).

(2) "Disabled individual" has the meaning assigned by Section 22.021(b).

(b) A person commits an offense if:

(1) during a period that is 30 or more days in duration, the person commits two or more acts of sexual abuse, regardless of whether the acts of sexual abuse are committed against one or more victims; and

(2) at the time of the commission of each of the acts of sexual abuse, the actor is 17 years of age or older and the victim is:

(A) a child younger than 14 years of age, regardless of whether the actor knows the age of the victim at the time of the offense; or

(B) a disabled individual.

(c) For purposes of this section, "act of sexual abuse" means any act that is a violation of one or more of the following penal laws:

(1) aggravated kidnapping under Section 20.04(a)(4), if the actor committed the offense with the intent to violate or abuse the victim sexually;

(2) indecency with a child under Section 21.11(a)(1), if the actor committed the offense in a manner other than by touching, including touching through clothing, the breast of a child;

(3) sexual assault under Section 22.011;

(4) aggravated sexual assault under Section 22.021;

(5) burglary under Section 30.02, if the offense is punishable under Subsection (d) of that section and the actor committed the offense with the intent to commit an

offense listed in Subdivisions (1)-(4);

(6) sexual performance by a child under Section 43.25;

(7) trafficking of persons under Section 20A.02(a)(3), (4), (7), or (8); and

(8) compelling prostitution under Section 43.05.

(d) If a jury is the trier of fact, members of the jury are not required to agree unanimously on which specific acts of sexual abuse were committed by the defendant or the exact date when those acts were committed. The jury must agree unanimously that the defendant, during a period that is 30 or more days in duration, committed two or more acts of sexual abuse.

(e) A defendant may not be convicted in the same criminal action of an offense listed under Subsection (c) the victim of which is the same victim as a victim of the offense alleged under Subsection (b) unless the offense listed in Subsection (c):

(1) is charged in the alternative;

(2) occurred outside the period in which the offense alleged under Subsection (b) was committed; or

(3) is considered by the trier of fact to be a lesser included offense of the offense alleged under Subsection (b).

(f) A defendant may not be charged with more than one count under Subsection (b) if all of the specific acts of sexual abuse that are alleged to have been committed are alleged to have been committed against a single victim.

(g) With respect to a prosecution under this section involving only one or more victims described by Subsection (b)(2)(A), it is an affirmative defense to prosecution under this section that the actor:

(1) was not more than five years older than:

(A) the victim of the offense, if the offense is alleged to have been committed against only one victim; or

(B) the youngest victim of the offense, if the offense is alleged to have been committed against more than one victim;

(2) did not use duress, force, or a threat against a victim at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense; and

(3) at the time of the commission of any of the acts of sexual abuse alleged as an element of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section or an act of sexual abuse as described by Subsection (c).

(h) 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.

Added by Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.17, eff. September 1, 2007.
Amended by:
Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.04, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 31, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 2, eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. 375), Sec. 1.01, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. 375), Sec. 1.02, eff. September 1, 2021.

Section 21.06 was declared unconstitutional by Lawrence v. Texas, 123 S.Ct. 2472.

Penal Code Sec. 21.06. HOMOSEXUAL CONDUCT

(a) A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex.

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

Penal Code Sec. 21.07. PUBLIC LEWDNESS

(a) A person commits an offense if the person knowingly engages in any of the following acts in a public place or, if not in a public place, the person is reckless about whether another is present who will be offended or alarmed by the person's:

(1) act of sexual intercourse;
(2) act of deviate sexual intercourse; or
(3) act of sexual contact.

(b) An offense under this section is a Class A 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.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 739 (S.B. 1232), Sec. 1, eff. September 1, 2017.

Penal Code Sec. 21.08. INDECENT EXPOSURE

(a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(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 1983, 68th Leg., p. 509, ch. 924, Sec. 1, eff. Sept. 1, 1983; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Penal Code Sec. 21.09. BESTIALITY

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

(1) engages in an act involving contact between:

(A) the person's mouth, anus, or genitals and the anus or genitals of an animal; or

(B) the person's anus or genitals and the mouth of the animal;

(2) fondles or touches the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice, including touching through clothing;

(3) causes an animal to contact the seminal fluid of the person;

(4) inserts any part of a person's body or any object into the anus or genitals of an animal in a manner that is not a generally accepted and otherwise lawful animal husbandry or veterinary practice;

(5) possesses, sells, transfers, purchases, or otherwise obtains an animal with the intent that the animal be used for conduct described by Subdivision (1), (2), (3), or (4);

(6) organizes, promotes, conducts, or participates as an observer of conduct described by Subdivision (1), (2), (3), or (4);

(7) causes a person to engage or aids a person in engaging in conduct described by Subdivision (1), (2), (3), or (4);

(8) permits conduct described by Subdivision (1), (2), (3), or (4) to occur on any premises under the person's control;

(9) engages in conduct described by Subdivision (1), (2), (3), or (4) in the presence of a child younger than 18 years of age; or

(10) advertises, offers, or accepts the offer of an animal with the intent that the animal be used in this state for conduct described by Subdivision (1), (2), (3), or (4).

(b) An offense under this section is a state jail felony, unless the offense is committed under Subsection (a)(9) or results in serious bodily injury or death of the animal, in which event the offense is a felony of the second degree.

(c) 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 animal husbandry or veterinary practice.

Added by Acts 2017, 85th Leg., R.S., Ch. 739 (S.B. 1232), Sec. 2, eff. September 1, 2017.

Penal Code Sec. 21.11. INDECENCY WITH A CHILD

(a) A person commits an offense if, with a child younger than 17 years of age, whether the child is of the same or opposite sex and regardless of whether the person knows the age of the child at the time of the offense, the person:

(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or

(2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or

(B) causes the child to expose the child's anus or any part of the child's genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

(1) was not more than three years older than the victim and of the opposite sex;

(2) did not use duress, force, or a threat against the victim at the time of the offense; and

(3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(b-1) It is an affirmative defense to prosecution under this section that the actor was the spouse of the child at the time of the offense.

(c) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or

(2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., p. 472, ch. 202, Sec. 3, eff. Sept. 1, 1981; Acts 1987, 70th Leg., ch. 1028, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 23, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 739, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 1, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 32, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 3, eff. September 1, 2017.

Penal Code Sec. 21.12. IMPROPER RELATIONSHIP BETWEEN EDUCATOR AND STUDENT

(a) An employee of a public or private primary or secondary school commits an offense if the employee:

(1) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person who is enrolled in a public or private primary or secondary school at which the employee works;

(2) holds a position described by Section 21.003(a) or (b), Education Code, regardless of whether the employee holds the appropriate certificate, permit, license, or credential for the position, and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person the employee knows is:

(A) enrolled in a public or private primary or secondary school, other than a school described by Subdivision (1); or

(B) a student participant in an educational activity that is sponsored by a school district or a public or private primary or secondary school, if students enrolled

in a public or private primary or secondary school are the primary participants in the activity; or

(3) engages in conduct described by Section 33.021, with a person described by Subdivision (1), or a person the employee knows is a person described by Subdivision (2)(A) or (B), regardless of the age of that person.

(b) An offense under this section is a felony of the second degree.

(b-1) It is an affirmative defense to prosecution under this section that:

(1) the actor was the spouse of the enrolled person at the time of the offense; or

(2) the actor was not more than three years older than the enrolled person and, at the time of the offense, the actor and the enrolled person were in a relationship that began before the actor's employment at a public or private primary or secondary school.

(c) 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.

(d) The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Subsection (a) may not be released to the public and is not public information under Chapter 552, Government Code.

(d-1) Except as otherwise provided by this subsection, a public or private primary or secondary school, or a person or entity that operates a public or private primary or secondary school, may not release externally to the general public the name of an employee of the school who is accused of committing an offense under this section until the employee is indicted for the offense. The school, or the person or entity that operates the school, may release the name of the accused employee regardless of whether the employee has been indicted for the offense as necessary for the school to:

(1) report the accusation:

(A) to the Texas Education Agency, another state agency, or local law enforcement or as otherwise required by law; or

(B) to the school's members or community in accordance with the school's policies or procedures or with the religious law observed by the school; or

(2) conduct an investigation of the accusation.

(e) In this section, "sexual contact" means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

(1) any touching by an employee of a public or private primary or secondary school of the anus, breast, or any part of the genitals of:

(A) an enrolled person described by Subsection (a)(1) or (a)(2)(A); or

(B) a student participant described by Subsection (a)(2)(B); or

(2) any touching of any part of the body of the enrolled person or student participant with the anus, breast, or any part of the genitals of the employee.

Added by Acts 2003, 78th Leg., ch. 224, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 610 (H.B. 401), Sec. 1, eff. September 1, 2007.
Acts 2007, 80th Leg., R.S., Ch. 772 (H.B. 3659), Sec. 1, eff. September 1, 2007.
Acts 2009, 81st Leg., R.S., Ch. 260 (H.B. 549), Sec. 2, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 761 (H.B. 1610), Sec. 3, eff. September 1, 2011.
Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 1, eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 631 (H.B. 246), Sec. 2, eff. September 1, 2021.

Penal Code Sec. 21.15. INVASIVE VISUAL RECORDING

(a) In this section:

(1) "Female breast" means any portion of the female breast below the top of the areola.

(2) "Intimate area" means the naked or clothed genitals, pubic area, anus, buttocks, or female breast of a person.

(3) "Changing room" means a room or portioned area provided for or primarily used for the changing of clothing and includes dressing rooms, locker rooms, and swimwear changing areas.

(4) "Promote" has the meaning assigned by Section 43.21.

(b) A person commits an offense if, without the other person's consent and with intent to invade the privacy of the other person, the person:

(1) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of an intimate area of another person if the other person has a reasonable expectation that the intimate area is not subject to public view;

(2) photographs or by videotape or other electronic means records, broadcasts, or transmits a visual image of another in a bathroom or changing room; or

(3) knowing the character and content of the photograph, recording, broadcast, or transmission, promotes a photograph, recording, broadcast, or transmission described by Subdivision (1) or (2).

(c) An offense under this section is a state jail felony.

(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) For purposes of Subsection (b)(2), a sign or signs posted indicating that the person is being photographed or that a visual image of the person is being recorded, broadcast, or transmitted is not sufficient to establish the person's consent under that subdivision.

Added by Acts 2001, 77th Leg., ch. 458, Sec. 1, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 500, Sec. 1, eff. Sept. 1, 2003.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 306 (H.B. 1804), Sec. 1, eff. September 1, 2007.
Acts 2015, 84th Leg., R.S., Ch. 955 (S.B. 1317), Sec. 1, eff. June 18, 2015.
Acts 2015, 84th Leg., R.S., Ch. 955 (S.B. 1317), Sec. 2, eff. June 18, 2015.

Penal Code Sec. 21.16. UNLAWFUL DISCLOSURE OR PROMOTION OF INTIMATE VISUAL MATERIAL

(a) In this section:

(1) "Intimate parts" means the naked genitals, pubic area, anus, buttocks, or female nipple of a person.

(2) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(3) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse.

(4) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(5) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(b) A person commits an offense if:

(1) without the effective consent of the depicted person and with the intent to harm that person, the person discloses visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct;

(2) at the time of the disclosure, the person knows or has reason to believe that the visual material was obtained by the person or created under circumstances in which the depicted person had a reasonable expectation that the visual material would remain private;

(3) the disclosure of the visual material causes harm to the depicted person; and

(4) the disclosure of the visual material reveals the identity of the depicted person in any manner, including through:

(A) any accompanying or subsequent information or material related to the visual material; or

(B) information or material provided by a third party in response to the disclosure of the visual material.

(c) A person commits an offense if the person intentionally threatens to disclose, without the consent of the depicted person, visual material depicting another person with the person's intimate parts exposed or engaged in sexual conduct and the actor makes the threat to obtain a benefit:

(1) in return for not making the disclosure; or

(2) in connection with the threatened disclosure.

(d) A person commits an offense if, knowing the character and content of the visual

material, the person promotes visual material described by Subsection (b) on an Internet website or other forum for publication that is owned or operated by the person.

(e) It is not a defense to prosecution under this section that the depicted person:

(1) created or consented to the creation of the visual material; or

(2) voluntarily transmitted the visual material to the actor.

(f) It is an affirmative defense to prosecution under Subsection (b) or (d) that:

(1) the disclosure or promotion is made in the course of:

(A) lawful and common practices of law enforcement or medical treatment;

(B) reporting unlawful activity; or

(C) a legal proceeding, if the disclosure or promotion is permitted or required by law;

(2) the disclosure or promotion consists of visual material depicting in a public or commercial setting only a person's voluntary exposure of:

(A) the person's intimate parts; or

(B) the person engaging in sexual conduct; or

(3) the actor is an interactive computer service, as defined by 47 U.S.C. Section 230, and the disclosure or promotion consists of visual material provided by another person.

(g) An offense under this section is a state jail felony.

(h) 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.

Added by Acts 2015, 84th Leg., R.S., Ch. 852 (S.B. 1135), Sec. 3, eff. September 1, 2015.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 16(b), eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 1354 (H.B. 98), Sec. 2, eff. September 1, 2019.

Penal Code Sec. 21.17. VOYEURISM

(a) A person commits an offense if the person, with the intent to arouse or gratify the sexual desire of the actor, observes another person without the other person's consent while the other person is in a dwelling or structure in which the other person has a reasonable expectation of privacy.

(b) Except as provided by Subsection (c) or (d), an offense under this section is a Class C misdemeanor.

(c) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of an offense under this section.

(d) An offense under this section is a state jail felony if the victim was a child younger than 14 years of age at the time of the offense.

(e) 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, the other law, or

both.

Added by Acts 2015, 84th Leg., R.S., Ch. 676 (H.B. 207), Sec. 1, eff. September 1, 2015.
Redesignated from Penal Code, Section 21.16 by Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 24.001(35), eff. September 1, 2017.

Penal Code Sec. 21.18. SEXUAL COERCION

(a) In this section:

(1) "Intimate visual material" means the visual material described by Section 21.16(b)(1) or (c).

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(b) A person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit an offense under Chapter 43 or Section 20A.02(a)(3), (4), (7), or (8), 21.02, 21.08, 21.11, 21.12, 21.15, 21.16, 21.17, 22.011, or 22.021 to obtain, in return for not committing the threatened offense or in connection with the threatened offense, any of the following benefits:

(1) intimate visual material;

(2) an act involving sexual conduct causing arousal or gratification; or

(3) a monetary benefit or other benefit of value.

(c) A person commits an offense if the person intentionally threatens, including by coercion or extortion, to commit an offense under Chapter 19 or 20 or Section 20A.02(a)(1), (2), (5), or (6) to obtain, in return for not committing the threatened offense or in connection with the threatened offense, either of the following benefits:

(1) intimate visual material; or

(2) an act involving sexual conduct causing arousal or gratification.

(d) This section applies to a threat regardless of how that threat is communicated, including a threat transmitted through e-mail or an Internet website, social media account, or chat room and a threat made by other electronic or technological means.

(e) An offense under this section is a state jail felony, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted of an offense under this section.

Added by Acts 2017, 85th Leg., R.S., Ch. 858 (H.B. 2552), Sec. 16(c), eff. September 1, 2017.
Added by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 4(b), eff. September 1, 2017.

Penal Code Sec. 21.19. UNLAWFUL ELECTRONIC TRANSMISSION OF SEXUALLY EXPLICIT VISUAL MATERIAL

(a) In this section, "intimate parts," "sexual conduct," and "visual material" have the meanings assigned by Section 21.16.

(b) A person commits an offense if the person knowingly transmits by electronic means

visual material that:

(1) depicts:

(A) any person engaging in sexual conduct or with the person's intimate parts exposed; or

(B) covered genitals of a male person that are in a discernibly turgid state; and

(2) is not sent at the request of or with the express consent of the recipient.

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

Added by Acts 2019, 86th Leg., R.S., Ch. 848 (H.B. 2789), Sec. 1, eff. September 1, 2019.

PENAL CODE
TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY
CHAPTER 43. PUBLIC INDECENCY
SUBCHAPTER A. PROSTITUTION

Penal Code Sec. 43.01. DEFINITIONS

In this subchapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that perform one or more of the following functions:

(A) filter, screen, allow, or disallow content;

(B) select, analyze, or digest content; or

(C) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(1-a) "Deviate sexual intercourse" means any contact between the genitals of one person and the mouth or anus of another person.

(1-b) "Fee" means the payment or offer of payment in the form of money, goods, services, or other benefit.

(1-c) "Information content provider" means any person or entity that is wholly or partly responsible for the creation or development of information provided through the Internet or any other interactive computer service.

(1-d) "Interactive computer service" means any information service, system, or access software provider that provides or enables computer access to a computer server by multiple users, including a service or system that provides access to the Internet or a system operated or service offered by a library or educational institution.

(1-e) "Internet" means the international computer network of both federal and nonfederal interoperable packet switched data networks.

(1-f) "Premises" has the meaning assigned by Section 481.134, Health and Safety Code.

(2) "Prostitution" means the offense defined in Section 43.02.

(2-a) "School" means a public or private primary or secondary school.

(3) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(4) "Sexual conduct" includes deviate sexual intercourse, sexual contact, and sexual intercourse.

(5) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

(6) "Solicitation of prostitution" means the offense defined in Section 43.021.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 373, ch. 168, Sec. 2, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 35, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.01, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 54, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 60, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. 1831), Sec. 8, eff. September 1, 2021.

Penal Code Sec. 43.02. PROSTITUTION

(a) A person commits an offense if the person knowingly offers or agrees to receive a fee from another to engage in sexual conduct.

(b-1) Repealed by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 44(2), eff. September 1, 2017.

(c) An offense under Subsection (a) is a Class B misdemeanor, except that the offense is:

(1) a Class A misdemeanor if the actor has previously been convicted one or two times of an offense under Subsection (a); or

(2) a state jail felony if the actor has previously been convicted three or more times of an offense under Subsection (a).

(c-2) The punishment prescribed for an offense under Subsection (b) is increased to the punishment prescribed for the next highest category of offense if it is shown on the trial of the offense that the actor committed the offense in a location that was:

(1) on the premises of or within 1,000 feet of the premises of a school; or

(2) on premises or within 1,000 feet of premises where:

(A) an official school function was taking place; or

(B) an event sponsored or sanctioned by the University Interscholastic League was taking place.

(d) It is a defense to prosecution for an offense under Subsection (a) that the actor engaged in the conduct that constitutes the offense because the actor was the victim of conduct that constitutes an offense under Section 20A.02 or 43.05.

(e) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and Subchapter D, Chapter 12. For purposes of enhancement of penalties under this section or Subchapter D, Chapter 12, a defendant is previously convicted of an offense

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.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 757, ch. 286, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 987, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1002 (H.B. 4009), Sec. 8, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 4.02, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 15, eff. September 1, 2013.
Acts 2015, 84th Leg., R.S., Ch. 332 (H.B. 10), Sec. 14, eff. September 1, 2015.
Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 1, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 36, eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 37, eff. September 1, 2017.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 44(2), eff. September 1, 2017.

Reenacted and amended by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 8, eff. September 1, 2017.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 2.05, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 29, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 61, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. 1831), Sec. 9, eff. September 1, 2021.

Penal Code Sec. 43.021. SOLICITATION OF PROSTITUTION

(a) A person commits an offense if the person knowingly offers or agrees to pay a fee to another person for the purpose of engaging in sexual conduct with that person or another.

(b) An offense under Subsection (a) is a state jail felony, except that the offense is:

(1) a felony of the third degree if the actor has previously been convicted of an offense under Subsection (a) or under Section 43.02(b), as that law existed before September 1, 2021; or

(2) a felony of the second degree if the person with whom the actor agrees to engage in sexual conduct is:

(A) younger than 18 years of age, regardless of whether the actor knows the age of the person at the time of the offense;
(B) represented to the actor as being younger than 18 years of age; or
(C) believed by the actor to be younger than 18 years of age.

(c) A conviction may be used for purposes of enhancement under this section or enhancement under Subchapter D, Chapter 12, but not under both this section and that subchapter. For purposes of enhancement of penalties under this section or Subchapter

D, Chapter 12, a defendant is considered to have been previously convicted of an offense under this section or under Section 43.02(b), as that law existed before September 1, 2021, 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.

Added by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 28, eff. September 1, 2021.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 29, eff. September 1, 2021.
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 30, eff. September 1, 2021.

Penal Code Sec. 43.03. PROMOTION OF PROSTITUTION

(a) A person commits an offense if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he or she knowingly:

(1) receives money or other property pursuant to an agreement to participate in the proceeds of prostitution; or

(2) solicits another to engage in sexual conduct with another person for compensation.

(b) An offense under this section is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if the actor has been previously convicted of an offense under this section; or

(2) a felony of the first degree if the actor engages in conduct described by Subsection (a)(1) or (2) involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 758, ch. 287, Sec. 1, eff. May 27, 1977; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 16, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 38, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 9, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 3, eff. September 1, 2019.

Penal Code Sec. 43.031. ONLINE PROMOTION OF PROSTITUTION

(a) A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of another person or facilitate another person to engage in prostitution or solicitation of prostitution.

(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:

(1) has been previously convicted of an offense under this section or Section 43.041; or

(2) engages in conduct described by Subsection (a) involving a person younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the person at the time of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.02, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 55, eff. September 1, 2021.

Penal Code Sec. 43.04. AGGRAVATED PROMOTION OF PROSTITUTION

(a) A person commits an offense if he knowingly owns, invests in, finances, controls, supervises, or manages a prostitution enterprise that uses two or more prostitutes.

(b) An offense under this section is a felony of the first degree.

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 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 17, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 39, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 10, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 4, eff. September 1, 2019.

Penal Code Sec. 43.041. AGGRAVATED ONLINE PROMOTION OF PROSTITUTION

(a) A person commits an offense if the person owns, manages, or operates an interactive computer service or information content provider, or operates as an information content provider, with the intent to promote the prostitution of five or more persons or facilitate five or more persons to engage in prostitution or solicitation of prostitution.

(b) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the actor:

(1) has been previously convicted of an offense under this section; or

(2) engages in conduct described by Subsection (a) involving two or more persons younger than 18 years of age engaging in prostitution, regardless of whether the actor knows the age of the persons at the time of the offense.

Added by Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 3.02, eff. September 1, 2019.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 56, eff. September 1, 2021.

Penal Code Sec. 43.05. COMPELLING PROSTITUTION

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

(1) causes another by force, threat, coercion, or fraud to commit prostitution; or

(2) causes by any means a child younger than 18 years to commit prostitution, regardless of whether the actor knows the age of the child at the time of the offense.

(b) An offense under this section is a felony of the first degree.

(c) 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.

(d) For purposes of this section, "coercion" as defined by Section 1.07 includes:

(1) destroying, concealing, confiscating, or withholding from a person, or threatening to destroy, conceal, confiscate, or withhold from a person, the person's actual or purported:

(A) government records; or

(B) identifying information or documents;

(2) causing a person, without the person's consent, to become intoxicated, as defined by Section 49.01, to a degree that impairs the person's ability to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct; or

(3) withholding alcohol or a controlled substance to a degree that impairs the ability of a person with a chemical dependency, as defined by Section 462.001, Health and Safety Code, to appraise the nature of the person's conduct that constitutes prostitution or to resist engaging in that conduct.

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 2009, 81st Leg., R.S., Ch. 1002 (H.B. 4009), Sec. 9, eff. September 1, 2009.
Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 1.03, eff. September 1, 2011.
Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 2, eff. September 1, 2015.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 40, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 11, eff. September 1, 2017.
Acts 2019, 86th Leg., R.S., Ch. 273 (S.B. 1802), Sec. 5, eff. September 1, 2019.

Penal Code Sec. 43.06. ACCOMPLICE WITNESS; TESTIMONY AND IMMUNITY

(a) A party to an offense under this subchapter may be required to furnish evidence or testify about the offense.

(b) A party to an offense under this subchapter may not be prosecuted for any offense about which he is required to furnish evidence or testify, and the evidence and testimony may not be used against the party in any adjudicatory proceeding except a prosecution for aggravated perjury.

(c) For purposes of this section, "adjudicatory proceeding" means a proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

(d) A conviction under this subchapter may be had upon the uncorroborated testimony of a party to the offense.

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.

PENAL CODE
TITLE 9. OFFENSES AGAINST PUBLIC ORDER AND DECENCY
CHAPTER 43. PUBLIC INDECENCY
SUBCHAPTER B. OBSCENITY

Penal Code Sec. 43.21. DEFINITIONS

(a) In this subchapter:

(1) "Obscene" means material or a performance that:

(A) the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex;

(B) depicts or describes:

(i) patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality; or

(ii) patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and

(C) taken as a whole, lacks serious literary, artistic, political, and scientific value.

(2) "Material" means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner, but does not include an actual three dimensional obscene device.

(3) "Performance" means a play, motion picture, dance, or other exhibition performed before an audience.

(4) "Patently offensive" means so offensive on its face as to affront current community standards of decency.

(5) "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

(6) "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs.

(b) If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 372, ch. 163, Sec. 1, eff. Sept. 1, 1975; Acts 1979, 66th Leg., p. 1974, ch. 778, Sec. 1, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Penal Code Sec. 43.22. OBSCENE DISPLAY OR DISTRIBUTION

(a) A person commits an offense if he intentionally or knowingly displays or distributes an obscene photograph, drawing, or similar visual representation or other obscene material and is reckless about whether a person is present who will be offended or alarmed by the display or distribution.

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

Penal Code Sec. 43.23. OBSCENITY

(a) A person commits an offense if, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote any obscene material or obscene device.

(b) Except as provided by Subsection (h), an offense under Subsection (a) is a state jail felony.

(c) A person commits an offense if, knowing its content and character, he:

(1) promotes or possesses with intent to promote any obscene material or obscene device; or

(2) produces, presents, or directs an obscene performance or participates in a portion thereof that is obscene or that contributes to its obscenity.

(d) Except as provided by Subsection (h), an offense under Subsection (c) is a Class A misdemeanor.

(e) A person who promotes or wholesale promotes obscene material or an obscene device or possesses the same with intent to promote or wholesale promote it in the course of his business is presumed to do so with knowledge of its content and character.

(f) A person who possesses six or more obscene devices or identical or similar obscene articles is presumed to possess them with intent to promote the same.

(g) It is an affirmative defense to prosecution under this section that the person who possesses or promotes material or a device proscribed by this section does so for a bona fide medical, psychiatric, judicial, legislative, or law enforcement purpose.

(h) The punishment for an offense under Subsection (a) or (c) is increased to the punishment for a felony of the second degree if it is shown on the trial of the offense that obscene material that is the subject of the offense visually depicts activities described by Section 43.21(a)(1)(B) engaged in by:

(1) a child younger than 18 years of age at the time the image of the child was made;

(2) an image that to a reasonable person would be virtually indistinguishable from the image of a child younger than 18 years of age; or

(3) an image created, adapted, or modified to be the image of an identifiable child.

(i) In this section, "identifiable child" means a person, recognizable as an actual person by the person's face, likeness, or other distinguishing characteristic, such as a unique birthmark or other recognizable feature:

(1) who was younger than 18 years of age at the time the visual depiction was created, adapted, or modified; or

(2) whose image as a person younger than 18 years of age was used in creating, adapting, or modifying the visual depiction.

(j) An attorney representing the state who seeks an increase in punishment under Subsection (h)(3) is not required to prove the actual identity of an identifiable child.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1975, ch. 778, Sec. 2, eff. Sept. 1, 1979; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 1005, Sec. 1, eff. Sept. 1, 2003.
Amended by:
Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 19, eff. September 1, 2013.

Penal Code Sec. 43.24. SALE, DISTRIBUTION, OR DISPLAY OF HARMFUL MATERIAL TO MINOR

(a) For purposes of this section:

(1) "Minor" means an individual younger than 18 years.

(2) "Harmful material" means material whose dominant theme taken as a whole:

(A) appeals to the prurient interest of a minor, in sex, nudity, or excretion;

(B) is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for minors; and

(C) is utterly without redeeming social value for minors.

(b) A person commits an offense if, knowing that the material is harmful:

(1) and knowing the person is a minor, he sells, distributes, exhibits, or possesses for sale, distribution, or exhibition to a minor harmful material;

(2) he displays harmful material and is reckless about whether a minor is present who will be offended or alarmed by the display; or

(3) he hires, employs, or uses a minor to do or accomplish or assist in doing or accomplishing any of the acts prohibited in Subsection (b)(1) or (b)(2).

(c) It is an affirmative defense to prosecution under this section that the sale, distribution, or exhibition was by a person having scientific, educational, governmental, or other similar justification.

(c-1) It is a defense to prosecution under this section that the actor was the spouse of the minor at the time of the offense.

(d) An offense under this section is a Class A misdemeanor unless it is committed under Subsection (b)(3) in which event it is a felony of the third degree.

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 2011, 82nd Leg., R.S., Ch. 497 (H.B. 1344), Sec. 1, eff. September 1, 2011.

Penal Code Sec. 43.25. SEXUAL PERFORMANCE BY A CHILD

(a) In this section:

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than 18 years of age.

(2) "Sexual conduct" means sexual contact, actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals, the anus, or any portion of the female breast below the top of the areola.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that can be exhibited before an audience of one or more persons.

(4) "Produce" with respect to a sexual performance includes any conduct that directly contributes to the creation or manufacture of the sexual performance.

(5) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

(6) "Simulated" means the explicit depiction of sexual conduct that creates the appearance of actual sexual conduct and during which a person engaging in the conduct exhibits any uncovered portion of the breasts, genitals, or buttocks.

(7) "Deviate sexual intercourse" and "sexual contact" have the meanings assigned by Section 43.01.

(b) A person commits an offense if, knowing the character and content thereof, he employs, authorizes, or induces a child younger than 18 years of age to engage in sexual conduct or a sexual performance. A parent or legal guardian or custodian of a child younger than 18 years of age commits an offense if he consents to the participation by the child in a sexual performance.

(c) An offense under Subsection (b) is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the victim at the time of the offense.

(d) A person commits an offense if, knowing the character and content of the material, he produces, directs, or promotes a performance that includes sexual conduct by a child younger than 18 years of age.

(e) An offense under Subsection (d) is a felony of the third degree, except that the offense is a felony of the second degree if the victim is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the victim at the time of the offense.

(f) It is an affirmative defense to a prosecution under this section that:

(1) the defendant was the spouse of the child at the time of the offense;

(2) the conduct was for a bona fide educational, medical, psychological, psychiatric,

judicial, law enforcement, or legislative purpose; or

(3) the defendant is not more than two years older than the child.

(g) When it becomes necessary for the purposes of this section or Section 43.26 to determine whether a child who participated in sexual conduct was younger than 18 years of age, the court or jury may make this determination by any of the following methods:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by the rules of evidence at common law.

(h) Conduct under this section constitutes an offense regardless of whether the actor knows the age of the victim at the time of the offense.

Added by Acts 1977, 65th Leg., p. 1035, ch. 381, Sec. 1, eff. June 10, 1977. Amended by Acts 1979, 66th Leg., p. 1976, ch. 779, Sec. 1, eff. Sept. 1, 1979; Acts 1985, 69th Leg., ch. 530, Sec. 1, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1999, 76th Leg., ch. 1415, Sec. 22(b), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1005, Sec. 4, 5 eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 1.20, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 41, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 12, eff. September 1, 2017.

Penal Code Sec. 43.251. EMPLOYMENT HARMFUL TO CHILDREN

(a) In this section:

(1) "Child" means a person younger than 21 years of age.

(2) "Massage" has the meaning assigned to the term "massage therapy" by Section 455.001, Occupations Code.

(3) "Massage establishment" has the meaning assigned by Section 455.001, Occupations Code.

(4) "Nude" means a child who is:

(A) entirely unclothed; or

(B) clothed in a manner that leaves uncovered or visible through less than fully opaque clothing any portion of the breasts below the top of the areola of the breasts, if the child is female, or any portion of the genitals or buttocks.

(5) "Sexually oriented commercial activity" means a massage establishment, nude studio, modeling studio, love parlor, or other similar commercial enterprise the primary business of which is the offering of a service that is intended to provide sexual stimulation or sexual gratification to the customer.

(6) "Topless" means a female child clothed in a manner that leaves uncovered or

visible through less than fully opaque clothing any portion of her breasts below the top of the areola.

(b) A person commits an offense if the person employs, authorizes, or induces a child to work:

(1) in a sexually oriented commercial activity; or

(2) in any place of business permitting, requesting, or requiring a child to work nude or topless.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 42

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the child is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the child at the time of the offense.

Text of subsection as amended by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 13

(c) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if the victim is younger than 14 years of age at the time the offense is committed, regardless of whether the actor knows the age of the victim at the time of the offense.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 42

(d) Conduct under this section constitutes an offense regardless of whether the actor knows the age of the child at the time of the offense.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 13

(d) Conduct under this section constitutes an offense regardless of whether the actor knows the age of the victim at the time of the offense.

Added by Acts 1987, 70th Leg., ch. 783, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1420, Sec. 14.832, eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. 2014), Sec. 4.03, eff. September 1, 2011.
Acts 2011, 82nd Leg., R.S., Ch. 938 (H.B. 290), Sec. 1, eff. September 1, 2011.
Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 18, eff. September 1, 2013.
Acts 2017, 85th Leg., R.S., Ch. 685 (H.B. 29), Sec. 42, eff. September 1, 2017.
Acts 2017, 85th Leg., R.S., Ch. 1038 (H.B. 1808), Sec. 13, eff. September 1, 2017.
Acts 2021, 87th Leg., R.S., Ch. 79 (S.B. 315), Sec. 8, eff. May 24, 2021.
Acts 2021, 87th Leg., R.S., Ch. 942 (S.B. 766), Sec. 8, eff. September 1, 2021.

Penal Code Sec. 43.26. POSSESSION OR PROMOTION OF CHILD PORNOGRAPHY

(a) A person commits an offense if:

(1) the person knowingly or intentionally possesses, or knowingly or intentionally accesses with intent to view, visual material that visually depicts a child younger than 18 years of

age at the time the image of the child was made who is engaging in sexual conduct, including a child who engages in sexual conduct as a victim of an offense under Section 20A.02(a)(5), (6), (7), or (8); and

(2) the person knows that the material depicts the child as described by Subdivision (1).

(b) In this section:

(1) "Promote" has the meaning assigned by Section 43.25.

(2) "Sexual conduct" has the meaning assigned by Section 43.25.

(3) "Visual material" means:

(A) any film, photograph, videotape, negative, or slide or any photographic reproduction that contains or incorporates in any manner any film, photograph, videotape, negative, or slide; or

(B) any disk, diskette, or other physical medium that allows an image to be displayed on a computer or other video screen and any image transmitted to a computer or other video screen by telephone line, cable, satellite transmission, or other method.

(c) The affirmative defenses provided by Section 43.25(f) also apply to a prosecution under this section.

(d) An offense under Subsection (a) is a felony of the third degree, except that the offense is:

(1) a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under that subsection; and

(2) a felony of the first degree if it is shown on the trial of the offense that the person has been previously convicted two or more times of an offense under that subsection.

(e) A person commits an offense if:

(1) the person knowingly or intentionally promotes or possesses with intent to promote material described by Subsection (a)(1); and

(2) the person knows that the material depicts the child as described by Subsection (a)(1).

(f) A person who possesses visual material that contains six or more identical visual depictions of a child as described by Subsection (a)(1) is presumed to possess the material with the intent to promote the material.

(g) An offense under Subsection (e) is a felony of the second degree, except that the offense is a felony of the first degree if it is shown on the trial of the offense that the person has been previously convicted of an offense under that subsection.

(h) It is a defense to prosecution under Subsection (a) or (e) that the actor is a law enforcement officer or a school administrator who:

(1) possessed or accessed the visual material in good faith solely as a result of an allegation of a violation of Section 43.261;

(2) allowed other law enforcement or school administrative personnel to possess or access the material only as appropriate based on the allegation described by Subdivision (1); and

(3) took reasonable steps to destroy the material within an appropriate period following the allegation described by Subdivision (1).

Added by Acts 1985, 69th Leg., ch. 530, Sec. 2, eff. Sept. 1, 1985. Amended by Acts 1989, 71st Leg., ch. 361, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 968, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 76, Sec. 14.51, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 933, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1415, Sec. 22(c), eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1252 (H.B. 8), Sec. 20, eff. September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 933 (H.B. 2291), Sec. 2, eff. September 1, 2015.

Penal Code Sec. 43.261. ELECTRONIC TRANSMISSION OF CERTAIN VISUAL MATERIAL DEPICTING MINOR

(a) In this section:

(1) "Dating relationship" has the meaning assigned by Section 71.0021, Family Code.

(2) "Minor" means a person younger than 18 years of age.

(3) "Produce" with respect to visual material includes any conduct that directly contributes to the creation or manufacture of the material.

(4) "Promote" has the meaning assigned by Section 43.25.

(5) "Sexual conduct" has the meaning assigned by Section 43.25.

(6) "Visual material" has the meaning assigned by Section 43.26.

(b) A person who is a minor commits an offense if the person intentionally or knowingly:

(1) by electronic means promotes to another minor visual material depicting a minor, including the actor, engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material; or

(2) possesses in an electronic format visual material depicting another minor engaging in sexual conduct, if the actor produced the visual material or knows that another minor produced the visual material.

(c) An offense under Subsection (b)(1) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor:

(A) promoted the visual material with intent to harass, annoy, alarm, abuse, torment, embarrass, or offend another; or

(B) except as provided by Subdivision (2)(A), has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been:

(A) convicted one or more times of an offense punishable under Subdivision

(1)(A); or

(B) convicted two or more times of any offense under this section.

(d) An offense under Subsection (b)(2) is a Class C misdemeanor, except that the offense is:

(1) a Class B misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted one time of any offense under this section; or

(2) a Class A misdemeanor if it is shown on the trial of the offense that the actor has previously been convicted two or more times of any offense under this section.

(e) It is an affirmative defense to prosecution under this section that the visual material:

(1) depicted only the actor or another minor:

(A) who is not more than two years older or younger than the actor and with whom the actor had a dating relationship at the time of the offense; or

(B) who was the spouse of the actor at the time of the offense; and

(2) was promoted or received only to or from the actor and the other minor.

(f) It is a defense to prosecution under Subsection (b)(2) that the actor:

(1) did not produce or solicit the visual material;

(2) possessed the visual material only after receiving the material from another minor; and

(3) destroyed the visual material within a reasonable amount of time after receiving the material from another minor.

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

(h) Notwithstanding Section 51.13, Family Code, a finding that a person has engaged in conduct in violation of this section is considered a conviction for the purposes of Subsections (c) and (d).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 3, eff. September 1, 2011.

Penal Code Sec. 43.262. POSSESSION OR PROMOTION OF LEWD VISUAL MATERIAL DEPICTING CHILD

(a) In this section:

(1) "Promote" and "sexual conduct" have the meanings assigned by Section 43.25.

(2) "Visual material" has the meaning assigned by Section 43.26.

(b) A person commits an offense if the person knowingly possesses, accesses with intent to view, or promotes visual material that:

(1) depicts the lewd exhibition of the genitals or pubic area of an unclothed, partially clothed, or clothed child who is younger than 18 years of age at the time the visual material was created;

(2) appeals to the prurient interest in sex; and

(3) has no serious literary, artistic, political, or scientific value.

(c) An offense under this section is a state jail felony, except that the offense is:

(1) a felony of the third degree if it is shown on the trial of the offense that the person has been previously convicted one time of an offense under this section or Section 43.26; and

(2) a felony of the second degree if it is shown on the trial of the offense that the person has been previously convicted two or more times of an offense under this section or Section 43.26.

(d) It is not a defense to prosecution under this section that the depicted child consented to the creation of the visual material.

Added by Acts 2017, 85th Leg., R.S., Ch. 350 (H.B. 1810), Sec. 1, eff. September 1, 2017.

Penal Code Sec. 43.27. DUTY TO REPORT

(a) For purposes of this section, " visual material" has the meaning assigned by Section 43.26.

(b) A business that develops or processes visual material and determines that the material may be evidence of a criminal offense under this subchapter shall report the existence of the visual material to a local law enforcement agency.

Added by Acts 2003, 78th Leg., ch. 1005, Sec. 6, eff. Sept. 1, 2003.