

CODE OF CRIMINAL PROCEDURE

TITLE 1. CODE OF CRIMINAL PROCEDURE

CHAPTER 2. GENERAL DUTIES OF OFFICERS

Art. 2.01. DUTIES OF DISTRICT ATTORNEYS. Each district attorney shall represent the State in all criminal cases in the district courts of his district and in appeals therefrom, except in cases where he has been, before his election, employed adversely. When any criminal proceeding is had before an examining court in his district or before a judge upon habeas corpus, and he is notified of the same, and is at the time within his district, he shall represent the State therein, unless prevented by other official duties. It shall be the primary duty of all prosecuting attorneys, including any special prosecutors, not to convict, but to see that justice is done. They shall not suppress facts or secrete witnesses capable of establishing the innocence of the accused.

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

Amended by Acts 1981, 67th Leg., p. 801, ch. 291, Sec. 98, eff. Sept. 1, 1981.

Art. 2.02. DUTIES OF COUNTY ATTORNEYS. The county attorney shall attend the terms of court in his county below the grade of district court, and shall represent the State in all criminal cases under examination or prosecution in said county; and in the absence of the district attorney he shall represent the State alone and, when requested, shall aid the district attorney in the prosecution of any case in behalf of the State in the district court. He shall represent

the State in cases he has prosecuted which are appealed.

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

Amended by Acts 1981, 67th Leg., p. 801, ch. 291, Sec. 99, eff. Sept. 1, 1981.

Art. 2.021. DUTIES OF ATTORNEY GENERAL. The attorney general may offer to a county or district attorney the assistance of the attorney general's office in the prosecution of an offense described by Article 60.051(g) the victim of which is younger than 17 years of age at the time the offense is committed. On request of a county or district attorney, the attorney general shall assist in the prosecution of an offense described by Article 60.051(g) the victim of which is younger than 17 years of age at the time the offense is committed. For purposes of this article, assistance includes investigative, technical, and litigation assistance of the attorney general's office.

Added by Acts 2007, 80th Leg., R.S., Ch. [593](#), Sec. 1.02, eff. September 1, 2007.

Art. 2.025. SPECIAL DUTY OF DISTRICT OR COUNTY ATTORNEY RELATING TO CHILD SUPPORT. If a district or county attorney receives money from a person who is required by a court order to pay child support through a local registry or the Title IV-D agency and the money is presented to the attorney as payment for the court-ordered child support, the attorney shall transfer the money to the local registry or Title IV-D agency designated as the place of payment in the child support order.

Added by Acts 1999, 76th Leg., ch. 40, Sec. 1, eff. Sept. 1, 1999.

Art. 2.03. NEGLECT OF DUTY. (a) It shall be the duty of the attorney representing the State to present by information to the court having jurisdiction, any officer for neglect or failure of any duty enjoined upon such officer, when such neglect or failure can be presented by information, whenever it shall come to the knowledge of said attorney that there has been a neglect or failure of duty upon the part of said officer; and he shall bring to the notice of the grand jury any act of violation of law or neglect or failure of duty upon the part of any officer, when such violation, neglect or failure is not presented by information, and whenever the same may come to his knowledge.

(b) It is the duty of the trial court, the attorney representing the accused, the attorney representing the state and all peace officers to so conduct themselves as to insure a fair trial for both the state and the defendant, not impair the presumption of innocence, and at the same time afford the public the benefits of a free press.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1733, ch. 659, Sec. 3, eff. Aug. 28, 1967.

Art. 2.04. SHALL DRAW COMPLAINTS. Upon complaint being made before a district or county attorney that an offense has been committed in his district or county, he shall reduce the complaint to writing and cause the same to be signed and sworn to by the complainant, and it shall be duly attested by said attorney.

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

Art. 2.05. WHEN COMPLAINT IS MADE. If the offense be a misdemeanor, the attorney shall forthwith prepare an information based

upon such complaint and file the same in the court having jurisdiction; provided, that in counties having no county attorney, misdemeanor cases may be tried upon complaint alone, without an information, provided, however, in counties having one or more criminal district courts an information must be filed in each misdemeanor case. If the offense be a felony, he shall forthwith file the complaint with a magistrate of the county.

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

Art. 2.06. MAY ADMINISTER OATHS. For the purpose mentioned in the two preceding Articles, district and county attorneys are authorized to administer oaths.

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

Art. 2.07. ATTORNEY PRO TEM. (a) Whenever an attorney for the state is disqualified to act in any case or proceeding, is absent from the county or district, or is otherwise unable to perform the duties of his office, or in any instance where there is no attorney for the state, the judge of the court in which he represents the state may appoint any competent attorney to perform the duties of the office during the absence or disqualification of the attorney for the state.

(b) Except as otherwise provided by this subsection, if the appointed attorney is also an attorney for the state, the duties of the appointed office are additional duties of his present office, and he is not entitled to additional compensation. Nothing herein shall prevent a commissioners court of a county from contracting with another commissioners court to pay expenses and reimburse compensation paid by a county to an attorney for the state who is appointed to perform additional duties.

(b-1) An attorney for the state who is not disqualified to act may request the court to permit him to recuse himself in a case for

good cause and upon approval by the court is disqualified.

(c) If the appointed attorney is not an attorney for the state, he is qualified to perform the duties of the office for the period of absence or disqualification of the attorney for the state on filing an oath with the clerk of the court. He shall receive compensation in the same amount and manner as an attorney appointed to represent an indigent person.

(d) In this article, "attorney for the state" means a county attorney, a district attorney, or a criminal district attorney.

(e) In Subsections (b) and (c) of this article, "attorney for the state" includes an assistant attorney general.

(f) In Subsection (a) of this article, "competent attorney" includes an assistant attorney general.

(g) An attorney appointed under Subsection (a) of this article to perform the duties of the office of an attorney for the state in a justice or municipal court may be paid a reasonable fee for performing those duties.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1733, ch. 659, Sec. 4, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 356, ch. 154, Sec. 1, eff. May 23, 1973.

Subsec. (b) amended by and subsec. (b-1) added by Acts 1987, 70th Leg., ch. 918, Sec. 1, eff. Aug. 31, 1987; Subsecs. (e), (f) added by Acts 1995, 74th Leg., ch. 785, Sec. 1, eff. Sept. 1, 1995; Subsec. (g) added by Acts 1999, 76th Leg., ch. 1545, Sec. 1, eff. Sept. 1, 1999.

Art. 2.08. DISQUALIFIED. District and county attorneys shall not be of counsel adversely to the State in any case, in any court, nor shall they, after they cease to be such officers, be of counsel adversely to the State in any case in which they have been of counsel for the State.

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

Art. 2.09. WHO ARE MAGISTRATES. Each of the following officers is a magistrate within the meaning of this Code: The justices of the Supreme Court, the judges of the Court of Criminal Appeals, the justices of the Courts of Appeals, the judges of the District Court, the magistrates appointed by the judges of the district courts of Bexar County, Dallas County, or Tarrant County that give preference to criminal cases, the criminal law hearing officers for Harris County appointed under Subchapter L, Chapter 54, Government Code, the criminal law hearing officers for Cameron County appointed under Subchapter BB, Chapter 54, Government Code, the magistrates appointed by the judges of the district courts of Lubbock County, Nolan County, or Webb County, the magistrates appointed by the judges of the criminal district courts of Dallas County or Tarrant County, the masters appointed by the judges of the district courts and the county courts at law that give preference to criminal cases in Jefferson County, the magistrates appointed by the judges of the district courts and the statutory county courts of Brazos County, Nueces County, or Williamson County, the magistrates appointed by the judges of the district courts and statutory county courts that give preference to criminal cases in Travis County, the county judges, the judges of the county courts at law, judges of the county criminal courts, the judges of statutory probate courts, the associate judges appointed by the judges of the statutory probate courts under Subchapter G, Chapter 54, Government Code, the justices of the peace, and the mayors and recorders and the judges of the municipal courts of incorporated cities or towns.

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

Amended by Acts 1981, 67th Leg., p. 801, ch. 291, Sec. 100, eff. Sept. 1, 1981; Acts 1983, 68th Leg., p. 883, ch. 204, Sec. 1, eff. Aug. 29, 1983; Acts 1989, 71st Leg., ch. 25, Sec. 2, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 79, Sec. 1, eff. May 15, 1989; Acts 1989, 71st Leg., ch. 916, Sec. 1, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 1068, Sec. 2, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 4.01, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 224, Sec. 2, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 413, Sec. 1, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 468, Sec. 1, eff. June 9, 1993; Acts 1993, 73rd Leg., ch. 577, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 586, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 1503, Sec. 2, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 979, Sec. 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1066, Sec. 9, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [109](#), Sec. 2, eff. May 20, 2005.

Acts 2005, 79th Leg., Ch. [767](#), Sec. 2, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. [1331](#), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. [1141](#), Sec. 1, eff. September 1, 2007.

Art. 2.10. DUTY OF MAGISTRATES. It is the duty of every magistrate to preserve the peace within his jurisdiction by the use of all lawful means; to issue all process intended to aid in preventing and suppressing crime; to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment.

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

Art. 2.11. EXAMINING COURT. When the magistrate sits for the purpose of inquiring into a criminal accusation against any person, this is called an examining court.

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

Art. 2.12. WHO ARE PEACE OFFICERS. The following are peace officers:

(1) sheriffs, their deputies, and those reserve deputies who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(2) constables, deputy constables, and those reserve deputy constables who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(3) marshals or police officers of an incorporated city, town, or village, and those reserve municipal police officers who hold a permanent peace officer license issued under Chapter 1701, Occupations Code;

(4) rangers and officers commissioned by the Public Safety Commission and the Director of the Department of Public Safety;

(5) investigators of the district attorneys', criminal district attorneys', and county attorneys' offices;

(6) law enforcement agents of the Texas Alcoholic Beverage Commission;

(7) each member of an arson investigating unit commissioned by a city, a county, or the state;

(8) officers commissioned under Section 37.081, Education Code, or Subchapter E, Chapter 51, Education Code;

(9) officers commissioned by the General Services Commission;

(10) law enforcement officers commissioned by the Parks and Wildlife Commission;

(11) airport police officers commissioned by a city with a population of more than 1.18 million that operates an airport that serves commercial air carriers;

(12) airport security personnel commissioned as peace officers by the governing body of any political subdivision of this state, other than a city described by Subdivision (11), that operates

an airport that serves commercial air carriers;

(13) municipal park and recreational patrolmen and security officers;

(14) security officers and investigators commissioned as peace officers by the comptroller;

(15) officers commissioned by a water control and improvement district under Section 49.216, Water Code;

(16) officers commissioned by a board of trustees under Chapter 54, Transportation Code;

(17) investigators commissioned by the Texas Medical Board;

(18) officers commissioned by the board of managers of the Dallas County Hospital District, the Tarrant County Hospital District, or the Bexar County Hospital District under Section 281.057, Health and Safety Code;

(19) county park rangers commissioned under Subchapter E, Chapter 351, Local Government Code;

(20) investigators employed by the Texas Racing Commission;

(21) officers commissioned under Chapter 554, Occupations Code;

(22) officers commissioned by the governing body of a metropolitan rapid transit authority under Section 451.108, Transportation Code, or by a regional transportation authority under Section 452.110, Transportation Code;

(23) investigators commissioned by the attorney general under Section 402.009, Government Code;

(24) security officers and investigators commissioned as peace officers under Chapter 466, Government Code;

(25) an officer employed by the Department of State Health Services under Section 431.2471, Health and Safety Code;

(26) officers appointed by an appellate court under Subchapter F, Chapter 53, Government Code;

(27) officers commissioned by the state fire marshal under Chapter 417, Government Code;

- (28) an investigator commissioned by the commissioner of insurance under Section 701.104, Insurance Code;
- (29) apprehension specialists and inspectors general commissioned by the Texas Youth Commission as officers under Sections 61.0451 and 61.0931, Human Resources Code;
- (30) officers appointed by the inspector general of the Texas Department of Criminal Justice under Section 493.019, Government Code;
- (31) investigators commissioned by the Commission on Law Enforcement Officer Standards and Education under Section 1701.160, Occupations Code;
- (32) commission investigators commissioned by the Texas Private Security Board under Section 1702.061(f), Occupations Code;
- (33) the fire marshal and any officers, inspectors, or investigators commissioned by an emergency services district under Chapter 775, Health and Safety Code;
- (34) officers commissioned by the State Board of Dental Examiners under Section 254.013, Occupations Code, subject to the limitations imposed by that section; and
- (35) investigators commissioned by the Texas Juvenile Probation Commission as officers under Section 141.055, Human Resources Code.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1734, ch. 659, Sec. 5, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1116, ch. 246, Sec. 3, eff. May 17, 1971; Acts 1973, 63rd Leg., p. 9, ch. 7, Sec. 2, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 1259, ch. 459, Sec. 1, eff. Aug. 27, 1973; Acts 1975, 64th Leg., p. 480, ch. 204, Sec. 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 618, ch. 227, Sec. 2, eff. May 24, 1977; Acts 1977, 65th Leg., p. 1082, ch. 396, Sec.1, eff. Aug. 29, 1977.

Amended by Acts 1983, 68th Leg., p. 545, ch. 114, Sec. 1, eff. May 17,

1983; Acts 1983, 68th Leg., p. 4358, ch. 699, Sec. 11, eff. June 19, 1983; Acts 1983, 68th Leg., p. 4901, ch. 867, Sec. 2, eff. June 19, 1983; Acts 1983, 68th Leg., p. 5303, ch. 974, Sec. 11, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 384, Sec. 2, eff. Aug. 26, 1985; Acts 1985, 69th Leg., ch. 907, Sec. 6, eff. Sept. 1, 1985; Acts 1986, 69th Leg., 2nd C.S., ch. 19, Sec. 4, eff. Dec. 4, 1986; Acts 1987, 70th Leg., ch. 262, Sec. 20, eff. Sept. 1, 1987; Acts 1987, 70th Leg., ch. 350, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 277, Sec. 4, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 794, Sec. 1, eff. Aug. 28, 1989; Acts 1989, 71st Leg., ch. 1104, Sec. 4, eff. June 16, 1989; Acts 1991, 72nd Leg., ch. 16, Sec. 4.02, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 228, Sec. 1, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 287, Sec. 24, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 386, Sec. 70, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 446, Sec. 1, eff. June 11, 1991; Acts 1991, 72nd Leg., ch. 544, Sec. 1, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 545, Sec. 2, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 597, Sec. 57, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 853, Sec. 2, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 1st C.S., ch. 6, Sec. 6; Acts 1991, 72nd Leg., 1st C.S., ch. 14, Sec. 3.01, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 107, Sec. 4.07, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 116, Sec. 1, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 339, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 695, Sec. 2, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 912, Sec. 25, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 10, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 621, Sec. 2, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 729, Sec. 1, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 4.01, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 90, Sec. 1, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 322, Sec. 2, eff. May 29, 1999; Acts 1999, 76th Leg., ch. 882, Sec. 2, eff. June 18, 1999; Acts 1999, 76th Leg., ch. 974, Sec. 37, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 272, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 442, Sec. 1, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 669, Sec. 8, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 3.001, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 235, Sec. 16, eff. Sept. 1,

2003; Acts 2003, 78th Leg., ch. 474, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 930, Sec. 12, eff. Sept. 1, 2003.

Reenacted and amended by Acts 2005, 79th Leg., Ch. [728](#), Sec. 4.001, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [908](#), Sec. 1, eff. September 1, 2007.

Art. 2.121. RAILROAD PEACE OFFICERS. (a) The director of the Department of Public Safety may appoint up to 250 railroad peace officers who are employed by a railroad company to aid law enforcement agencies in the protection of railroad property and the protection of the persons and property of railroad passengers and employees.

(b) Except as provided by Subsection (c) of this article, a railroad peace officer may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving injury to passengers and employees of the railroad or damage to railroad property or to protect railroad property or property in the custody or control of the railroad.

(c) A railroad peace officer may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.

(d) A railroad peace officer is not entitled to state benefits normally provided by the state to a peace officer.

(e) A person may not serve as a railroad peace officer for a railroad company unless:

(1) the Texas Railroad Association submits the person's application for appointment and certification as a railroad peace officer to the director of the Department of Public Safety and to the executive director of the Commission on Law Enforcement Officer Standards and Education;

(2) the director of the department issues the person a certificate of authority to act as a railroad peace officer; and

(3) the executive director of the commission determines that the person meets minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health and issues the person a license as a railroad peace officer; and

(4) the person has met all standards for certification as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

(f) For good cause, the director of the department may revoke a certificate of authority issued under this article and the executive director of the commission may revoke a license issued under this article. Termination of employment with a railroad company, or the revocation of a railroad peace officer license, shall constitute an automatic revocation of a certificate of authority to act as a railroad peace officer.

(g) A railroad company is liable for any act or omission by a person serving as a railroad peace officer for the company that is within the person's scope of employment. Neither the state nor any political subdivision or agency of the state shall be liable for any act or omission by a person appointed as a railroad peace officer. All expenses incurred by the granting or revocation of a certificate of authority to act as a railroad peace officer shall be paid by the employing railroad company.

(h) A railroad peace officer who is a member of a railroad craft may not perform the duties of a member of any other railroad craft during a strike or labor dispute.

(i) The director of the department and the executive director of the commission shall have the authority to promulgate rules necessary for the effective administration and performance of the duties and responsibilities delegated to them by this article.

Added by Acts 1985, 69th Leg., ch. 531, Sec. 1, eff. June 12, 1985. Subsec. (c) amended by Acts 1999, 76th Leg., ch. 62, Sec. 3.01, eff. Sept. 1, 1999.

Art. 2.122. SPECIAL INVESTIGATORS. (a) The following named criminal investigators of the United States shall not be deemed peace officers, but shall have the powers of arrest, search and seizure as to felony offenses only under the laws of the State of Texas:

- (1) Special Agents of the Federal Bureau of Investigation;
- (2) Special Agents of the Secret Service;
- (3) Special Agents of the United States Customs Service;
- (4) Special Agents of Alcohol, Tobacco and Firearms;
- (5) Special Agents of Federal Drug Enforcement Agency;
- (6) Inspectors of the United States Postal Service;

(7) Special Agents of the Criminal Investigation Division and Inspectors of the Internal Security Division of the Internal Revenue Service;

(8) Civilian Special Agents of the United States Naval Investigative Service;

(9) Marshals and Deputy Marshals of the United States Marshals Service;

(10) Special Agents of the United States Immigration and Naturalization Service; and

(11) Special Agents of the United States Department of State, Bureau of Diplomatic Security.

(b) A person designated as a special policeman by the Federal Protective Services division of the General Services Administration under 40 U.S.C. Section 318 or 318d is not a peace officer but has the powers of arrest and search and seizure as to any offense under the laws of this state.

(c) A customs inspector of the United States Customs Service or a border patrolman or immigration officer of the United States Department of Justice is not a peace officer under the laws of this state but, on the premises of a port facility designated by the commissioner of the United States Immigration and Naturalization Service as a port of entry for arrival in the United States by land transportation from the United Mexican States into the State of Texas or at a permanent established border patrol traffic check point, has

the authority to detain a person pending transfer without unnecessary delay to a peace officer if the inspector, patrolman, or officer has probable cause to believe that the person has engaged in conduct that is a violation of Section 49.02, 49.04, 49.07, or 49.08, Penal Code, regardless of whether the violation may be disposed of in a criminal proceeding or a juvenile justice proceeding.

(d) A commissioned law enforcement officer of the National Park Service is not a peace officer under the laws of this state, except that the officer has the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the boundaries of a national park or national recreation area. In this subsection, "national park or national recreation area" means a national park or national recreation area included in the National Park System as defined by 16 U.S.C. Section 1c(a).

(e) A Special Agent or Law Enforcement Officer of the United States Forest Service is not a peace officer under the laws of this state, except that the agent or officer has the powers of arrest, search, and seizure as to any offense under the laws of this state committed within the National Forest System. In this subsection, "National Forest System" has the meaning assigned by 16 U.S.C. Section 1609.

(f) Security personnel working at a commercial nuclear power plant, including contract security personnel, trained and qualified under a security plan approved by the United States Nuclear Regulatory Commission, are not peace officers under the laws of this state, except that such personnel have the powers of arrest, search, and seizure, including the powers under Section 9.51, Penal Code, while in the performance of their duties on the premises of a commercial nuclear power plant site or under agreements entered into with local law enforcement regarding areas surrounding the plant site.

(g) In addition to the powers of arrest, search, and seizure under Subsection (a), a Special Agent of the Secret Service protecting a person described by 18 U.S.C. Section 3056(a) or investigating a threat against a person described by 18 U.S.C. Section 3056(a) has the powers of arrest, search, and seizure as to:

- (1) misdemeanor offenses under the laws of this state; and
- (2) any criminal offense under federal law.

Added by Acts 1985, 69th Leg., ch. 543, Sec. 1, eff. Sept. 1, 1985. Renumbered from art. 2.121 and amended by Acts 1987, 70th Leg., ch. 503, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., ch. 854, Sec. 1, eff. Aug. 31, 1987. Amended by Acts 1989, 71st Leg., ch. 841, Sec. 1, eff. June 14, 1989; Acts 1993, 73rd Leg., ch. 927, Sec. 1, eff. June 19, 1993; Subsec. (a) amended by Acts 1997, 75th Leg., ch. 717, Sec. 1, eff. June 17, 1997; Subsec. (c) added by Acts 1997, 75th Leg., ch. 290, Sec. 1, eff. May 26, 1997; Subsec. (a) amended by Acts 1999, 76th Leg., ch. 197, Sec. 1, eff. May 24, 1999; Subsec. (c) amended by Acts 1999, 76th Leg., ch. 863, Sec. 1, eff. June 18, 1999; Subsec. (d) added by Acts 1999, 76th Leg., ch. 197, Sec. 1, eff. May 24, 1999; added by Acts 1999, 76th Leg., ch. 628, Sec. 1, eff. June 18, 1999; Subsec. (e) relettered from subsec. (d) by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(7), eff. Sept. 1, 2001; Subsec. (f) added by Acts 2003, 78th Leg., ch. 1237, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [1337](#), Sec. 5, eff. June 18, 2005.

Art. 2.123. ADJUNCT POLICE OFFICERS. (a) Within counties under 200,000 population, the chief of police of a municipality or the sheriff of the county, if the institution is outside the corporate limits of a municipality, that has jurisdiction over the geographical area of a private institution of higher education, provided the governing board of such institution consents, may appoint up to 50 peace officers who are commissioned under Section 51.212, Education Code, and who are employed by a private institution of higher education located in the municipality or county, to serve as adjunct police officers of the municipality or county. Officers appointed under this article shall aid law enforcement agencies in the protection of the municipality or county in a geographical area that is designated by agreement on an annual basis between the appointing

chief of police or sheriff and the private institution.

(b) The geographical area that is subject to designation under Subsection (a) of this article may include only the private institution's campus area and an area that:

(1) is adjacent to the campus of the private institution;

(2) does not extend further than a distance of one mile from the perimeter of the campus of the private institution; and

(3) is inhabited primarily by students or employees of the private institution.

(c) A peace officer serving as an adjunct police officer may make arrests and exercise all authority given peace officers under this code only within the geographical area designated by agreement between the appointing chief of police or sheriff and the private institution.

(d) A peace officer serving as an adjunct police officer has all the rights, privileges, and immunities of a peace officer but is not entitled to state compensation and retirement benefits normally provided by the state to a peace officer.

(e) A person may not serve as an adjunct police officer for a municipality or county unless:

(1) the institution of higher education submits the person's application for appointment and certification as an adjunct police officer to the chief of police of the municipality or, if outside a municipality, the sheriff of the county that has jurisdiction over the geographical area of the institution;

(2) the chief of police of the municipality or sheriff of the county to whom the application was made issues the person a certificate of authority to act as an adjunct police officer; and

(3) the person undergoes any additional training required for that person to meet the training standards of the municipality or county for peace officers employed by the municipality or county.

(f) For good cause, the chief of police or sheriff may revoke a certificate of authority issued under this article.

(g) A private institution of higher education is liable for any act or omission by a person while serving as an adjunct police officer

outside of the campus of the institution in the same manner as the municipality or county governing that geographical area is liable for any act or omission of a peace officer employed by the municipality or county. This subsection shall not be construed to act as a limitation on the liability of a municipality or county for the acts or omissions of a person serving as an adjunct police officer.

(h) The employing institution shall pay all expenses incurred by the municipality or county in granting or revoking a certificate of authority to act as an adjunct police officer under this article.

(i) This article does not affect any duty of the municipality or county to provide law enforcement services to a geographical area designated under Subsection (a) of this article.

Added by Acts 1987, 70th Leg., ch. 1128, Sec. 1, eff. Aug. 31, 1987.

Art. 2.124. PEACE OFFICERS FROM ADJOINING STATES. (a) A commissioned peace officer of a state of the United States of America adjoining this state, while the officer is in this state, has under this subsection the same powers, duties, and immunities as a peace officer of this state who is acting in the discharge of an official duty, but only:

(1) during a time in which:

(A) the peace officer from the adjoining state has physical custody of an inmate or criminal defendant and is transporting the inmate or defendant from a county in the adjoining state that is on the border between the two states to a hospital or other medical facility in a county in this state that is on the border between the two states; or

(B) the peace officer has physical custody of the inmate or defendant and is returning the inmate or defendant from the hospital or facility to the county in the adjoining state; and

(2) to the extent necessary to:

(A) maintain physical custody of the inmate or defendant while transporting the inmate or defendant; or

(B) regain physical custody of the inmate or defendant if the inmate or defendant escapes while being transported.

(b) A commissioned peace officer of a state of the United States of America adjoining this state, while the officer is in this state, has under this subsection the same powers, duties, and immunities as a peace officer of this state who is acting in the discharge of an official duty, but only in a municipality some part of the municipal limits of which are within one mile of the boundary between this state and the adjoining state and only at a time the peace officer is regularly assigned to duty in a county, parish, or municipality that adjoins this state. A peace officer described by this subsection may also as part of the officer's powers in this state enforce the ordinances of a Texas municipality described by this subsection but only after the governing body of the municipality authorizes that enforcement by majority vote at an open meeting.

Added by Acts 1995, 74th Leg., ch. 156, Sec. 1, eff. May 19, 1995.

Amended by Acts 1999, 76th Leg., ch. 107, Sec. 1, eff. Sept. 1, 1999.

Art. 2.125. SPECIAL RANGERS OF TEXAS AND SOUTHWESTERN CATTLE RAISERS ASSOCIATION. (a) The director of the Department of Public Safety may appoint up to 50 special rangers who are employed by the Texas and Southwestern Cattle Raisers Association to aid law enforcement agencies in the investigation of the theft of livestock or related property.

(b) Except as provided by Subsection (c) of this article, a special ranger may make arrests and exercise all authority given peace officers under this code when necessary to prevent or abate the commission of an offense involving livestock or related property.

(c) A special ranger may not issue a traffic citation for a violation of Chapter 521, Transportation Code, or Subtitle C, Title 7, Transportation Code.

(d) A special ranger is not entitled to state benefits normally provided by the state to a peace officer.

(e) A person may not serve as a special ranger unless:

(1) the Texas and Southwestern Cattle Raisers Association submits the person's application for appointment and certification as a special ranger to the director of the Department of Public Safety and to the executive director of the Commission on Law Enforcement Officer Standards and Education;

(2) the director of the department issues the person a certificate of authority to act as a special ranger;

(3) the executive director of the commission determines that the person meets minimum standards required of peace officers by the commission relating to competence, reliability, education, training, morality, and physical and mental health and issues the person a license as a special ranger; and

(4) the person has met all standards for certification as a peace officer by the Commission on Law Enforcement Officer Standards and Education.

(f) For good cause, the director of the department may revoke a certificate of authority issued under this article and the executive director of the commission may revoke a license issued under this article. Termination of employment with the association, or the revocation of a special ranger license, shall constitute an automatic revocation of a certificate of authority to act as a special ranger.

(g) The Texas and Southwestern Cattle Raisers Association is liable for any act or omission by a person serving as a special ranger for the association that is within the person's scope of employment. Neither the state nor any political subdivision or agency of the state shall be liable for any act or omission by a person appointed as a special ranger. All expenses incurred by the granting or revocation of a certificate of authority to act as a special ranger shall be paid by the association.

(h) The director of the department and the executive director of the commission shall have the authority to promulgate rules necessary for the effective administration and performance of the duties and responsibilities delegated to them by this article.

Added by Acts 2005, 79th Leg., Ch. [209](#), Sec. 1, eff. September 1, 2005.

Art. 2.13. DUTIES AND POWERS. (a) It is the duty of every peace officer to preserve the peace within the officer's jurisdiction. To effect this purpose, the officer shall use all lawful means.

(b) The officer shall:

(1) in every case authorized by the provisions of this Code, interfere without warrant to prevent or suppress crime;

(2) execute all lawful process issued to the officer by any magistrate or court;

(3) give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and

(4) arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.

(c) It is the duty of every officer to take possession of a child under Article 63.009(g).

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

Amended by Acts 1999, 76th Leg., ch. 685, Sec. 1, eff. Sept. 1, 1999; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 5.0005, eff. Sept. 1, 2003.

Art. 2.131. RACIAL PROFILING PROHIBITED. A peace officer may not engage in racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.132. LAW ENFORCEMENT POLICY ON RACIAL PROFILING. (a) In this article:

(1) "Law enforcement agency" means an agency of the state, or of a county, municipality, or other political subdivision of the state, that employs peace officers who make traffic stops in the routine performance of the officers' official duties.

(2) "Race or ethnicity" means of a particular descent, including Caucasian, African, Hispanic, Asian, or Native American descent.

(b) Each law enforcement agency in this state shall adopt a detailed written policy on racial profiling. The policy must:

(1) clearly define acts constituting racial profiling;

(2) strictly prohibit peace officers employed by the agency from engaging in racial profiling;

(3) implement a process by which an individual may file a complaint with the agency if the individual believes that a peace officer employed by the agency has engaged in racial profiling with respect to the individual;

(4) provide public education relating to the agency's complaint process;

(5) require appropriate corrective action to be taken against a peace officer employed by the agency who, after an investigation, is shown to have engaged in racial profiling in violation of the agency's policy adopted under this article;

(6) require collection of information relating to traffic stops in which a citation is issued and to arrests resulting from those traffic stops, including information relating to:

(A) the race or ethnicity of the individual detained; and

(B) whether a search was conducted and, if so, whether the person detained consented to the search; and

(7) require the agency to submit to the governing body of each county or municipality served by the agency an annual report of the information collected under Subdivision (6) if the agency is an agency of a county, municipality, or other political subdivision of the state.

(c) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

(d) On adoption of a policy under Subsection (b), a law enforcement agency shall examine the feasibility of installing video camera and transmitter-activated equipment in each agency law enforcement motor vehicle regularly used to make traffic stops and transmitter-activated equipment in each agency law enforcement motorcycle regularly used to make traffic stops. If a law enforcement agency installs video or audio equipment as provided by this subsection, the policy adopted by the agency under Subsection (b) must include standards for reviewing video and audio documentation.

(e) A report required under Subsection (b)(7) may not include identifying information about a peace officer who makes a traffic stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the collection of information as required by a policy under Subsection (b)(6).

(f) On the commencement of an investigation by a law enforcement agency of a complaint described by Subsection (b)(3) in which a video or audio recording of the occurrence on which the complaint is based was made, the agency shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.133. REPORTS REQUIRED FOR TRAFFIC AND PEDESTRIAN STOPS. (a) In this article:

(1) "Race or ethnicity" has the meaning assigned by Article 2.132(a).

(2) "Pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A peace officer who stops a motor vehicle for an alleged

violation of a law or ordinance regulating traffic or who stops a pedestrian for any suspected offense shall report to the law enforcement agency that employs the officer information relating to the stop, including:

(1) a physical description of each person detained as a result of the stop, including:

(A) the person's gender; and

(B) the person's race or ethnicity, as stated by the person or, if the person does not state the person's race or ethnicity, as determined by the officer to the best of the officer's ability;

(2) the traffic law or ordinance alleged to have been violated or the suspected offense;

(3) whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;

(4) whether any contraband was discovered in the course of the search and the type of contraband discovered;

(5) whether probable cause to search existed and the facts supporting the existence of that probable cause;

(6) whether the officer made an arrest as a result of the stop or the search, including a statement of the offense charged;

(7) the street address or approximate location of the stop; and

(8) whether the officer issued a warning or a citation as a result of the stop, including a description of the warning or a statement of the violation charged.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.134. COMPILATION AND ANALYSIS OF INFORMATION COLLECTED. (a) In this article, "pedestrian stop" means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

(b) A law enforcement agency shall compile and analyze the information contained in each report received by the agency under

Article 2.133. Not later than March 1 of each year, each local law enforcement agency shall submit a report containing the information compiled during the previous calendar year to the governing body of each county or municipality served by the agency in a manner approved by the agency.

(c) A report required under Subsection (b) must include:

(1) a comparative analysis of the information compiled under Article 2.133 to:

(A) determine the prevalence of racial profiling by peace officers employed by the agency; and

(B) examine the disposition of traffic and pedestrian stops made by officers employed by the agency, including searches resulting from the stops; and

(2) information relating to each complaint filed with the agency alleging that a peace officer employed by the agency has engaged in racial profiling.

(d) A report required under Subsection (b) may not include identifying information about a peace officer who makes a traffic or pedestrian stop or about an individual who is stopped or arrested by a peace officer. This subsection does not affect the reporting of information required under Article 2.133(b)(1).

(e) The Commission on Law Enforcement Officer Standards and Education shall develop guidelines for compiling and reporting information as required by this article.

(f) The data collected as a result of the reporting requirements of this article shall not constitute prima facie evidence of racial profiling.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.135. EXEMPTION FOR AGENCIES USING VIDEO AND AUDIO EQUIPMENT. (a) A peace officer is exempt from the reporting requirement under Article 2.133 and a law enforcement agency is exempt from the compilation, analysis, and reporting requirements under

Article 2.134 if:

(1) during the calendar year preceding the date that a report under Article 2.134 is required to be submitted:

(A) each law enforcement motor vehicle regularly used by an officer employed by the agency to make traffic and pedestrian stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make traffic and pedestrian stops is equipped with transmitter-activated equipment; and

(B) each traffic and pedestrian stop made by an officer employed by the agency that is capable of being recorded by video and audio or audio equipment, as appropriate, is recorded by using the equipment; or

(2) the governing body of the county or municipality served by the law enforcement agency, in conjunction with the law enforcement agency, certifies to the Department of Public Safety, not later than the date specified by rule by the department, that the law enforcement agency needs funds or video and audio equipment for the purpose of installing video and audio equipment as described by Subsection (a) (1) (A) and the agency does not receive from the state funds or video and audio equipment sufficient, as determined by the department, for the agency to accomplish that purpose.

(b) Except as otherwise provided by this subsection, a law enforcement agency that is exempt from the requirements under Article 2.134 shall retain the video and audio or audio documentation of each traffic and pedestrian stop for at least 90 days after the date of the stop. If a complaint is filed with the law enforcement agency alleging that a peace officer employed by the agency has engaged in racial profiling with respect to a traffic or pedestrian stop, the agency shall retain the video and audio or audio record of the stop until final disposition of the complaint.

(c) This article does not affect the collection or reporting requirements under Article 2.132.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.136. LIABILITY. A peace officer is not liable for damages arising from an act relating to the collection or reporting of information as required by Article 2.133 or under a policy adopted under Article 2.132.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.137. PROVISION OF FUNDING OR EQUIPMENT. (a) The Department of Public Safety shall adopt rules for providing funds or video and audio equipment to law enforcement agencies for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), including specifying criteria to prioritize funding or equipment provided to law enforcement agencies. The criteria may include consideration of tax effort, financial hardship, available revenue, and budget surpluses. The criteria must give priority to:

- (1) law enforcement agencies that employ peace officers whose primary duty is traffic enforcement;
- (2) smaller jurisdictions; and
- (3) municipal and county law enforcement agencies.

(b) The Department of Public Safety shall collaborate with an institution of higher education to identify law enforcement agencies that need funds or video and audio equipment for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A). The collaboration may include the use of a survey to assist in developing criteria to prioritize funding or equipment provided to law enforcement agencies.

(c) To receive funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency needs funds or video and audio equipment for that purpose.

(d) On receipt of funds or video and audio equipment from the state for the purpose of installing video and audio equipment as described by Article 2.135(a)(1)(A), the governing body of a county or municipality, in conjunction with the law enforcement agency serving the county or municipality, shall certify to the Department of Public Safety that the law enforcement agency has installed video and audio equipment as described by Article 2.135(a)(1)(A) and is using the equipment as required by Article 2.135(a)(1).

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.138. RULES. The Department of Public Safety may adopt rules to implement Articles 2.131-2.137.

Added by Acts 2001, 77th Leg., ch. 947, Sec. 1, eff. Sept. 1, 2001.

Art. 2.14. MAY SUMMON AID. Whenever a peace officer meets with resistance in discharging any duty imposed upon him by law, he shall summon a sufficient number of citizens of his county to overcome the resistance; and all persons summoned are bound to obey.

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

Art. 2.15. PERSON REFUSING TO AID. The peace officer who has summoned any person to assist him in performing any duty shall report such person, if he refuse to obey, to the proper district or county attorney, in order that he may be prosecuted for the offense.

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

Art. 2.16. NEGLECTING TO EXECUTE PROCESS. If any sheriff or

other officer shall wilfully refuse or fail from neglect to execute any summons, subpoena or attachment for a witness, or any other legal process which it is made his duty by law to execute, he shall be liable to a fine for contempt not less than ten nor more than two hundred dollars, at the discretion of the court. The payment of such fine shall be enforced in the same manner as fines for contempt in civil cases.

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

Art. 2.17. CONSERVATOR OF THE PEACE. Each sheriff shall be a conservator of the peace in his county, and shall arrest all offenders against the laws of the State, in his view or hearing, and take them before the proper court for examination or trial. He shall quell and suppress all assaults and batteries, affrays, insurrections and unlawful assemblies. He shall apprehend and commit to jail all offenders, until an examination or trial can be had.

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

Art. 2.18. CUSTODY OF PRISONERS. When a prisoner is committed to jail by warrant from a magistrate or court, he shall be placed in jail by the sheriff. It is a violation of duty on the part of any sheriff to permit a defendant so committed to remain out of jail, except that he may, when a defendant is committed for want of bail, or when he arrests in aailable case, give the person arrested a reasonable time to procure bail; but he shall so guard the accused as to prevent escape.

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

Art. 2.19. REPORT AS TO PRISONERS. On the first day of each

month, the sheriff shall give notice, in writing, to the district or county attorney, where there be one, as to all prisoners in his custody, naming them, and of the authority under which he detains them.

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

Art. 2.20. DEPUTY. Wherever a duty is imposed by this Code upon the sheriff, the same duty may lawfully be performed by his deputy. When there is no sheriff in a county, the duties of that office, as to all proceedings under the criminal law, devolve upon the officer who, under the law, is empowered to discharge the duties of sheriff, in case of vacancy in the office.

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

Art. 2.21. DUTY OF CLERKS. (a) In a criminal proceeding, a clerk of the district or county court shall:

- (1) receive and file all papers;
- (2) receive all exhibits at the conclusion of the proceeding;
- (3) issue all process; and
- (4) perform all other duties imposed on the clerk by law.

(b) At any time during or after a criminal proceeding, the court reporter shall release for safekeeping any firearm or contraband received as an exhibit in that proceeding to:

- (1) the sheriff; or
- (2) in a county with a population of 500,000 or more, the law enforcement agency that collected, seized, or took possession of the firearm or contraband or produced the firearm or contraband at the proceeding.

(c) The sheriff or the law enforcement agency, as applicable, shall receive and hold the exhibits consisting of firearms or contraband and release them only to the person or persons authorized

by the court in which such exhibits have been received or dispose of them as provided by Chapter 18.

(d) In this article, "eligible exhibit" means an exhibit filed with the clerk that:

(1) is not a firearm or contraband;

(2) has not been ordered by the court to be returned to its owner; and

(3) is not an exhibit in another pending criminal action.

(e) An eligible exhibit may be disposed of as provided by this article:

(1) on or after the first anniversary of the date on which a conviction becomes final in the case, if the case is a misdemeanor or a felony for which the sentence imposed by the court is five years or less; or

(2) on or after the second anniversary of the date on which a conviction becomes final in the case, if the case is a non-capital felony for which the sentence imposed by the court is greater than five years.

(f) A clerk in a county with a population of 1.7 million or more may dispose of an eligible exhibit on the date provided by Subsection (e) of this article if on that date the clerk has not received a request for the exhibit from either the attorney representing the state in the case or the attorney representing the defendant.

(g) A clerk in a county with a population of less than 1.7 million must provide written notice by mail to the attorney representing the state in the case and the attorney representing the defendant before disposing of an eligible exhibit.

(h) The notice under Subsection (g) of this article must:

(1) describe the eligible exhibit;

(2) give the name and address of the court holding the exhibit;

and

(3) state that the eligible exhibit will be disposed of unless a written request is received by the clerk before the 31st day after the date of notice.

(i) If a request is not received by a clerk covered by

Subsection (g) of this article before the 31st day after the date of notice, the clerk may dispose of the eligible exhibit.

(j) If a request is timely received, the clerk shall deliver the eligible exhibit to the person making the request if the court determines the requestor is the owner of the eligible exhibit.

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

Amended by Acts 1979, 66th Leg., p. 212, ch. 119, Sec. 1, eff. Aug. 27, 1979; Acts 1993, 73rd Leg., ch. 967, Sec. 1, eff. Sept. 1, 1993; Subsecs. (a), (b) amended by Acts 1999, 76th Leg., ch. 580, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [1026](#), Sec. 1, eff. September 1, 2005.

Art. 2.211. HATE CRIME REPORTING. In addition to performing duties required by Article 2.21, a clerk of a district or county court in which an affirmative finding under Article 42.014 is requested shall report that request to the Texas Judicial Council, along with a statement as to whether the request was granted by the court and, if so, whether the affirmative finding was entered in the judgment in the case. The clerk shall make the report required by this article not later than the 30th day after the date the judgment is entered in the case.

Added by Acts 2001, 77th Leg., ch. 85, Sec. 4.01, eff. Sept. 1, 2001.

Art. 2.22. POWER OF DEPUTY CLERKS. Whenever a duty is imposed upon the clerk of the district or county court, the same may be lawfully performed by his deputy.

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

Art. 2.23. REPORT TO ATTORNEY GENERAL. (a) The clerks of the district and county courts shall, when requested in writing by the Attorney General, report to the Attorney General not later than the 10th day after the date the request is received, and in the form prescribed by the Attorney General, information in court records that relates to a criminal matter, including information requested by the Attorney General for purposes of federal habeas review.

(b) A state agency or the office of an attorney representing the state shall, when requested in writing by the Attorney General, provide to the Attorney General any record that is needed for purposes of federal habeas review. The agency or office must provide the record not later than the 10th day after the date the request is received and in the form prescribed by the Attorney General.

(c) A district court, county court, state agency, or office of an attorney representing the state may not restrict or delay the reproduction or delivery of a record requested by the Attorney General under this article.

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

Amended by:

Acts 2005, 79th Leg., Ch. [933](#), Sec. 1, eff. September 1, 2005.

Art. 2.24. AUTHENTICATING OFFICER. (a) The governor may appoint an authenticating officer, in accordance with Subsection (b) of this article, and delegate to that officer the power to sign for the governor or to use the governor's facsimile signature for signing any document that does not have legal effect under this code unless it is signed by the governor.

(b) To appoint an authenticating officer under this article, the governor shall file with the secretary of state a document that contains:

(1) the name of the person to be appointed as authenticating officer and a copy of the person's signature;

(2) the types of documents the authenticating officer is authorized to sign for the governor; and

(3) the types of documents on which the authenticating officer is authorized to use the governor's facsimile signature.

(c) The governor may revoke an appointment made under this article by filing with the secretary of state a document that expressly revokes the appointment of the authenticating agent.

(d) If an authenticating officer signs a document described in Subsection (a) of this article, the officer shall sign in the following manner: "_____, Authenticating Officer for Governor _____."

(e) If a provision of this code requires the governor's signature on a document before that document has legal effect, the authorized signature of the authenticating officer or an authorized facsimile signature of the governor gives the document the same legal effect as if it had been signed manually by the governor.

Added by Acts 1983, 68th Leg., p. 4289, ch. 684, Sec. 1, eff. June 19, 1983.

Art. 2.25. REPORTING CERTAIN ALIENS TO FEDERAL GOVERNMENT. A judge shall report to the United States Immigration and Naturalization Service a person who has been convicted in the judge's court of a crime or has been placed on deferred adjudication for a felony and is an illegal criminal alien as defined by Section 493.015(a), Government Code.

Added by Acts 1995, 74th Leg., ch. 85, Sec. 2, eff. May 16, 1995.

Art. 2.26. DIGITAL SIGNATURE AND ELECTRONIC DOCUMENTS. (a) In this section, "digital signature" means an electronic identifier

intended by the person using it to have the same force and effect as the use of a manual signature.

(b) An electronically transmitted document issued or received by a court or a clerk of the court in a criminal matter is considered signed if a digital signature is transmitted with the document.

(b-1) An electronically transmitted document is a written document for all purposes and exempt from any additional writing requirement under this code or any other law of this state.

(c) This section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39), Business & Commerce Code.

(d) The use of a digital signature under this section is subject to criminal laws pertaining to fraud and computer crimes, including Chapters 32 and 33, Penal Code.

Added by Acts 1999, 76th Leg., ch. 701, Sec. 1, eff. Aug. 30, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. [312](#), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. [312](#), Sec. 2, eff. June 17, 2005.

Text of section as amended by Acts 2003, 78th Leg., ch. 867, Sec. 2

Art. 2.27. INVESTIGATION OF CERTAIN REPORTS ALLEGING CHILD ABUSE. On receipt of a report that is assigned the highest priority in accordance with rules adopted by the Department of Protective and Regulatory Services under Section 261.301(d), Family Code, and that alleges an immediate risk of physical or sexual abuse of a child that could result in the death of or serious harm to the child by a person responsible for the care, custody, or welfare of the child, a peace officer from the appropriate local law enforcement agency shall investigate the report jointly with the department or with the agency responsible for conducting an investigation under Subchapter E, Chapter 261, Family Code. As soon as possible after being notified by the department of the report, but not later than 24 hours after being

notified, the peace officer shall accompany the department investigator in initially responding to the report.

Added by Acts 2001, 77th Leg., ch. 492, Sec. 1, eff. Sept. 1, 2001; amended by Acts 2003, 78th Leg., ch. 867, Sec. 2, eff. Sept. 1, 2003.

Text of section as amended by Acts 2003, 78th Leg., ch. 1210, Sec. 5

Art. 2.27. INVESTIGATION OF CERTAIN REPORTS ALLEGING ABUSE. (a) On receipt of a report alleging serious physical or sexual abuse of a child by a person responsible for the care, custody, or welfare of the child, an investigator from the appropriate local law enforcement agency shall investigate the report jointly with the Department of Protective and Regulatory Services or with the agency responsible for conducting an investigation under Subchapter E, Chapter 261, Family Code.

(b) On receipt of a report of abuse or neglect or other complaint of a resident of a nursing home, convalescent home, or other related institution under Section 242.126(c)(1), Health and Safety Code, the appropriate local law enforcement agency shall investigate the report as required by Section 242.135, Health and Safety Code.

Added by Acts 2001, 77th Leg., ch. 492, Sec. 1, eff. Sept. 1, 2001; amended by Acts 2003, 78th Leg., ch. 1210, Sec. 5, eff. Sept. 1, 2003.

Art. 2.28. DUTIES REGARDING MISUSED IDENTITY. On receipt of information to the effect that a person's identifying information was falsely given by a person arrested as the arrested person's identifying information, the local law enforcement agency responsible for collecting identifying information on arrested persons in the county in which the arrest was made shall:

(1) notify the person that:

(A) the person's identifying information was misused by another

person arrested in the county;

(B) the person may file a declaration with the Department of Public Safety under Section 411.0421, Government Code; and

(C) the person is entitled to expunction of information contained in criminal records and files under Chapter 55 of this code; and

(2) notify the Department of Public Safety regarding:

(A) the misuse of the identifying information;

(B) the actual identity of the person arrested, if known by the agency; and

(C) whether the agency was able to notify the person whose identifying information was misused.

Added by Acts 2003, 78th Leg., ch. 339, Sec. 1, eff. Sept. 1, 2003.

Art. 2.29. REPORT REQUIRED IN CONNECTION WITH FRAUDULENT USE OR POSSESSION OF IDENTIFYING INFORMATION. (a) A peace officer to whom an alleged violation of Section 32.51, Penal Code, is reported shall make a written report to the law enforcement agency that employs the peace officer that includes the following information:

(1) the name of the victim;

(2) the name of the suspect, if known;

(3) the type of identifying information obtained, possessed, transferred, or used in violation of Section 32.51, Penal Code; and

(4) the results of any investigation.

(b) On the victim's request, the law enforcement agency shall provide the report created under Subsection (a) to the victim. In providing the report, the law enforcement agency shall redact any otherwise confidential information that is included in the report, other than the information described by Subsection (a).

Added by Acts 2005, 79th Leg., Ch. [294](#), Sec. 1(a), eff. September 1, 2005.

Art. 2.30. REPORT CONCERNING CERTAIN ASSAULTIVE OR TERRORISTIC OFFENSES. (a) This article applies only to the following offenses:

- (1) assault under Section 22.01, Penal Code;
- (2) aggravated assault under Section 22.02, Penal Code;
- (3) sexual assault under Section 22.011, Penal Code;
- (4) aggravated sexual assault under Section 22.021, Penal Code; and

- (5) terroristic threat under Section 22.07, Penal Code.

(b) A peace officer who investigates the alleged commission of an offense listed under Subsection (a) shall prepare a written report that includes the information required under Article 5.05(a).

(c) On request of a victim of an offense listed under Subsection (a), the local law enforcement agency responsible for investigating the commission of the offense shall provide the victim, at no cost to the victim, with any information that is:

- (1) contained in the written report prepared under Subsection (b);
- (2) described by Article 5.05(a)(1) or (2); and
- (3) not exempt from disclosure under Chapter 552, Government Code, or other law.

Added by Acts 2007, 80th Leg., R.S., Ch. [1057](#), Sec. 1, eff. September 1, 2007.