

CODE OF CRIMINAL PROCEDURE
TITLE 1. CODE OF CRIMINAL PROCEDURE
CHAPTER 42. JUDGMENT AND SENTENCE

Art. 42.01. JUDGMENT.

Text of section effective until January 01, 2019

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment shall reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding or findings of the court;
8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;
9. In the event of conviction where death or any punishment is assessed that the defendant be sentenced to death, a term of confinement or community supervision, or to pay a fine, as the case may be;
10. In the event of conviction where the imposition of sentence is suspended and the defendant is placed on community

supervision, setting forth the punishment assessed, the length of community supervision, and the conditions of community supervision;

11. In the event of acquittal that the defendant be discharged;

12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;

13. The offense or offenses for which the defendant was convicted;

14. The date of the offense or offenses and degree of offense for which the defendant was convicted;

15. The term of sentence;

16. The date judgment is entered;

17. The date sentence is imposed;

18. The date sentence is to commence and any credit for time served;

19. The terms of any order entered pursuant to Article [42.08](#) that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;

20. The terms of any plea bargain;

21. Affirmative findings entered pursuant to Article [42A.054](#)(c) or (d);

22. The terms of any fee payment ordered under Article [42.151](#);

23. The defendant's thumbprint taken in accordance with Article [38.33](#);

24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles [37.073](#) and [42.152](#), a statement of the amount of the payment or payments required to be made;

25. In the event that the court orders restitution to be paid to the victim, a statement of the amount of restitution ordered and:

(A) the name and address of a person or agency that will accept and forward restitution payments to the victim; or

(B) if the court specifically elects to have

payments made directly to the crime victim, the name and permanent address of the victim at the time of judgment;

26. In the event that a presentence investigation is required by Subchapter F, Chapter 42A, a statement that the presentence investigation was done according to the applicable provision;

27. In the event of conviction of an offense for which registration as a sex offender is required under Chapter 62, a statement that the registration requirement of that chapter applies to the defendant and a statement of the age of the victim of the offense;

28. The defendant's state identification number required by Section 60.052(a)(2), if that number has been assigned at the time of the judgment; and

29. The incident number required by Section 60.052(a)(4), if that number has been assigned at the time of the judgment.

Text of section effective on January 01, 2019

Sec. 1. A judgment is the written declaration of the court signed by the trial judge and entered of record showing the conviction or acquittal of the defendant. The sentence served shall be based on the information contained in the judgment. The judgment shall reflect:

1. The title and number of the case;
2. That the case was called and the parties appeared, naming the attorney for the state, the defendant, and the attorney for the defendant, or, where a defendant is not represented by counsel, that the defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel;
3. The plea or pleas of the defendant to the offense charged;
4. Whether the case was tried before a jury or a jury was waived;
5. The submission of the evidence, if any;
6. In cases tried before a jury that the jury was charged by the court;
7. The verdict or verdicts of the jury or the finding

or findings of the court;

8. In the event of a conviction that the defendant is adjudged guilty of the offense as found by the verdict of the jury or the finding of the court, and that the defendant be punished in accordance with the jury's verdict or the court's finding as to the proper punishment;

9. In the event of conviction where death or any punishment is assessed that the defendant be sentenced to death, a term of confinement or community supervision, or to pay a fine, as the case may be;

10. In the event of conviction where the imposition of sentence is suspended and the defendant is placed on community supervision, setting forth the punishment assessed, the length of community supervision, and the conditions of community supervision;

11. In the event of acquittal that the defendant be discharged;

12. The county and court in which the case was tried and, if there was a change of venue in the case, the name of the county in which the prosecution was originated;

13. The offense or offenses for which the defendant was convicted;

14. The date of the offense or offenses and degree of offense for which the defendant was convicted;

15. The term of sentence;

16. The date judgment is entered;

17. The date sentence is imposed;

18. The date sentence is to commence and any credit for time served;

19. The terms of any order entered pursuant to Article [42.08](#) that the defendant's sentence is to run cumulatively or concurrently with another sentence or sentences;

20. The terms of any plea bargain;

21. Affirmative findings entered pursuant to Article [42A.054](#)(c) or (d);

22. The terms of any fee payment ordered under Article [42.151](#);

23. The defendant's thumbprint taken in accordance with Article 38.33;

24. In the event that the judge orders the defendant to repay a reward or part of a reward under Articles 37.073 and 42.152, a statement of the amount of the payment or payments required to be made;

25. In the event that the court orders restitution to be paid to the victim, a statement of the amount of restitution ordered and:

(A) the name and address of a person or agency that will accept and forward restitution payments to the victim; or

(B) if the court specifically elects to have payments made directly to the crime victim, the name and permanent address of the victim at the time of judgment;

26. In the event that a presentence investigation is required by Subchapter F, Chapter 42A, a statement that the presentence investigation was done according to the applicable provision;

27. In the event of conviction of an offense for which registration as a sex offender is required under Chapter 62, a statement that the registration requirement of that chapter applies to the defendant and a statement of the age of the victim of the offense;

28. The defendant's state identification number required by Article 66.152(a)(2), if that number has been assigned at the time of the judgment; and

29. The incident number required by Article 66.152(a)(4), if that number has been assigned at the time of the judgment.

Sec. 2. The judge may order the prosecuting attorney, or the attorney or attorneys representing any defendant, or the court clerk under the supervision of an attorney, to prepare the judgment, or the court may prepare the same.

Sec. 3. The provisions of this article shall apply to both felony and misdemeanor cases.

Sec. 4. The Office of Court Administration of the Texas Judicial System shall promulgate a standardized felony judgment

form that conforms to the requirements of Section 1 of this article. A court entering a felony judgment shall use the form promulgated under this section.

Sec. 5. In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.013 of this code.

Sec. 6. In addition to the information described by Section 1 of this article, the judgment should reflect affirmative findings entered pursuant to Article 42.014 of this code.

Sec. 7. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.015.

Sec. 8. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.017.

Sec. 9. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0197.

Sec. 10. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0198.

Sec. 11. In addition to the information described by Section 1, the judgment should reflect whether a victim impact statement was returned to the attorney representing the state pursuant to Article 56.03(e).

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 443
(S.B. 500), Sec. 3

Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0196.

Text of section as added by Acts 2017, 85th Leg., R.S., Ch. 178
(S.B. 7), Sec. 2

Sec. 12. In addition to the information described by Section

1, the judgment should reflect affirmative findings entered pursuant to Article [42.0192](#).

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1975, 64th Leg., p. 245, ch. 95, Sec. 1, eff. Sept. 1, 1975.

Amended by Acts 1981, 67th Leg., p. 809, ch. 291, Sec. 111, eff. Sept. 1, 1981. Sec. 1 amended by Acts 1985, 69th Leg., ch. 344, Sec. 1, eff. Jan. 1, 1986; Sec. 4 added by Acts 1985, 69th Leg., ch. 344, Sec. 2, eff. June 10, 1985; Sec. 1 amended by Acts 1987, 70th Leg., ch. 110, Sec. 2, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 360, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 603, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 611, Sec. 2, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 806, Sec. 1, eff. Sept. 1, 1989; Sec. 1 amended by Acts 1991, 72nd Leg., ch. 16, Sec. 4.04, eff. Aug. 26, 1991; Sec. 1 amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 7.02, eff. Dec. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993. Sec. 5 added by Acts 1993, 73rd Leg., ch. 900, Sec. 9.02, eff. Sept. 1, 1993; Sec. 6 added by Acts 1993, 73rd Leg., ch. 987, Sec. 4, eff. Sept. 1, 1993; Sec. 1 amended by Acts 1995, 74th Leg., ch. 258, Sec. 9, eff. Sept. 1, 1995; Sec. 1 amended by Acts 1997, 75th Leg., ch. 668, Sec. 2, eff. Sept. 1, 1997; Sec. 2 amended by Acts 1999, 76th Leg., ch. 580, Sec. 6, eff. Sept. 1, 1999; Sec. 7 added by Acts 1999, 76th Leg., ch. 1193, Sec. 1, eff. Sept. 1, 1999; Sec. 7 added by Acts 1999, 76th Leg., ch. 1415, Sec. 2, eff. Sept. 1, 1999; Sec. 8 added by Acts 2001, 77th Leg., ch. 1159, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1218 (H.B. [967](#)), Sec. 1, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1040 (H.B. [4464](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. [2086](#)), Sec. 15, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1400 (H.B. [221](#)), Sec. 1, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(2), eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1154 (S.B. [213](#)), Sec. 24, eff.

September 1, 2013.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.10, eff. January 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 443 (S.B. 500), Sec. 3, eff. June 6, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1058 (H.B. 2931), Sec. 4.02, eff. January 1, 2019.

Art. 42.011. JUDGMENT AFFECTING AN OFFICER OR JAILER. If a person licensed under Chapter 1701, Occupations Code, is charged with the commission of a felony and a court that knows the person is licensed under that chapter convicts the person or places the person on community supervision, the clerk of the court shall send the Texas Commission on Law Enforcement, by mail or electronically, the license number of the person and a certified copy of the court's judgment reflecting that the person has been convicted or placed on community supervision.

Added by Acts 1995, 74th Leg., ch. 538, Sec. 10, eff. Sept. 1, 1995.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.09, eff. May 18, 2013.

Art. 42.012. FINDING THAT CONTROLLED SUBSTANCE USED TO COMMIT OFFENSE. In the punishment phase of the trial of an offense under Chapter 29, Chapter 31, or Title 5, Penal Code, if the court determines beyond a reasonable doubt that the defendant administered or provided a controlled substance to the victim of the offense with the intent of facilitating the commission of the offense, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of that case.

Added by Acts 1999, 76th Leg., ch. 417, Sec. 2(b), eff. Sept. 1, 1999. Renumbered from Vernon's Ann. C.C.P. art. 42.015 by Acts 2001, 77th Leg., ch. 1420, Sec. 21.001(9), eff. Sept. 1, 2001.

Art. 42.013. FINDING OF FAMILY VIOLENCE. In the trial of an

offense under Title 5, Penal Code, if the court determines that the offense involved family violence, as defined by Section 71.004, Family Code, the court shall make an affirmative finding of that fact and enter the affirmative finding in the judgment of the case. Added by Acts 1993, 73rd Leg., ch. 900, Sec. 9.01, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(h), eff. Sept. 1, 2003.

Art. 42.0131. REQUIRED NOTICE FOR PERSONS CONVICTED OF MISDEMEANORS INVOLVING FAMILY VIOLENCE. If a person is convicted of a misdemeanor involving family violence, as defined by Section 71.004, Family Code, the court shall notify the person of the fact that it is unlawful for the person to possess or transfer a firearm or ammunition.

Added by Acts 2007, 80th Leg., R.S., Ch. 125 (S.B. 1470), Sec. 2, eff. September 1, 2007.

Art. 42.014. FINDING THAT OFFENSE WAS COMMITTED BECAUSE OF BIAS OR PREJUDICE. (a) In the trial of an offense under Title 5, Penal Code, or Section 28.02, 28.03, or 28.08, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment of the case if at the guilt or innocence phase of the trial, the judge or the jury, whichever is the trier of fact, determines beyond a reasonable doubt that the defendant intentionally selected the person against whom the offense was committed, or intentionally selected the person's property that was damaged or affected as a result of the offense, because of the defendant's bias or prejudice against a group identified by race, color, disability, religion, national origin or ancestry, age, gender, or sexual preference or by status as a peace officer or judge.

(b) The sentencing judge may, as a condition of punishment, require attendance in an educational program to further tolerance and acceptance of others.

(c) In this article, "sexual preference" has the following meaning only: a preference for heterosexuality, homosexuality, or bisexuality.

Added by Acts 1993, 73rd Leg., ch. 987, Sec. 5, eff. Sept. 1, 1993.
Amended by Acts 1995, 74th Leg., ch. 318, Sec. 50, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 85, Sec. 1.02, eff. Sept. 1, 2001.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 440 (H.B. 2908), Sec. 1, eff. September 1, 2017.

Art. 42.015. FINDING OF AGE OF VICTIM. (a) In the trial of an offense under Section 20.02, 20.03, or 20.04, Penal Code, or an attempt, conspiracy, or solicitation to commit one of those offenses, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 17 years of age at the time of the offense.

(b) In the trial of a sexually violent offense, as defined by Article 62.001, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the victim or intended victim was younger than 14 years of age at the time of the offense.

Added by Acts 1999, 76th Leg., ch. 1193, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1415, Sec. 3, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 663 (H.B. 1302), Sec. 2, eff. September 1, 2013.

Art. 42.016. SPECIAL DRIVER'S LICENSE OR IDENTIFICATION REQUIREMENTS FOR CERTAIN SEX OFFENDERS. If a person is convicted of, receives a grant of deferred adjudication for, or is adjudicated as having engaged in delinquent conduct based on a violation of an offense for which a conviction or adjudication requires registration as a sex offender under Chapter 62, the court shall:

(1) issue an order requiring the Texas Department of Public Safety to include in any driver's license record or personal identification certificate record maintained by the department for the person an indication that the person is subject to the registration requirements of Chapter 62;

(2) require the person to apply to the Texas Department of Public Safety in person for an original or renewal driver's license or personal identification certificate not later than the 30th day after the date the person is released or the date the department sends written notice to the person of the requirements of Article 62.060, as applicable, and to annually renew the license or certificate;

(3) notify the person of the consequence of the conviction or order of deferred adjudication as it relates to the order issued under this article; and

(4) send to the Texas Department of Public Safety a copy of the record of conviction, a copy of the order granting deferred adjudication, or a copy of the juvenile adjudication, as applicable, and a copy of the order issued under this article.

Added by Acts 1999, 76th Leg., ch. 1401, Sec. 1, eff. Sept. 1, 2000.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. 867), Sec. 2.01, eff. September 1, 2005.

Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the trial of an offense under Section 21.11 or 22.011, Penal Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that:

(1) at the time of the offense, the defendant was not more than four years older than the victim or intended victim and the victim or intended victim was at least 15 years of age; and

(2) the conviction is based solely on the ages of the defendant and the victim or intended victim at the time of the offense.

Added by Acts 2001, 77th Leg., ch. 1159, Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.17, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 134 (S.B. 198), Sec. 1, eff. September 1, 2011.

Art. 42.018. NOTICE PROVIDED BY CLERK OF COURT. (a) This article applies only to:

(1) conviction or deferred adjudication community supervision granted on the basis of an offense for which a conviction or grant of deferred adjudication community supervision requires the defendant to register as a sex offender under Chapter 62; or

(2) conviction of an offense under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed.

(b) Not later than the fifth day after the date a person who holds a certificate issued under Subchapter B, Chapter 21, Education Code, is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide to the State Board for Educator Certification written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based. Added by Acts 2003, 78th Leg., ch. 920, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 3, eff. September 1, 2017.

Art. 42.0181. NOTICE OF THEFT, FRAUD, MONEY LAUNDERING, OR INSURANCE FRAUD PROVIDED BY CLERK OF COURT. Not later than the fifth day after the date a person who holds a certificate of authority, license, or other authority issued by the Texas Department of Insurance is convicted of or granted deferred adjudication for an offense under Chapter 31, 32, 34, or 35, Penal Code, the clerk of the court in which the conviction or order of deferred adjudication is entered shall provide to the Texas Department of Insurance written notice of the person's conviction or deferred adjudication, including the offense on which the conviction or deferred adjudication was based.

Added by Acts 2005, 79th Leg., Ch. 1162 (H.B. 3376), Sec. 7, eff. September 1, 2005.

Art. 42.0182. FINDINGS REGARDING TAX FRAUD. (a) In the trial of an offense under the Tax Code or an offense under the Penal Code related to the administration of taxes, the state may file a written request with the court in which the indictment or information is pending for the court to make affirmative findings regarding the commission of tax fraud as described by Subsection (b). The state must provide a copy of the written request to the defendant before the date the trial begins.

(b) If the state requests affirmative findings in the manner required by Subsection (a), the court shall make the requested affirmative findings and enter the findings in the papers in the case if the court finds by clear and convincing evidence that:

(1) the defendant's failure to pay a tax or file a report when due, as required by Title 2 or 3, Tax Code, was a result of fraud or an intent to evade the tax;

(2) the defendant altered, destroyed, or concealed any record, document, or thing, or presented to the comptroller any altered or fraudulent record, document, or thing, or otherwise engaged in fraudulent conduct for the apparent purpose of affecting the course or outcome of an audit, investigation, redetermination, or other proceeding before the comptroller; or

(3) the defendant's failure to file a report under Chapter 162, Tax Code, or to pay a tax under that chapter when the tax became due is attributable to fraud or an intent to evade the application of Chapter 162, Tax Code, or a rule adopted under Chapter 111 or 162, Tax Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 68 (S.B. 934), Sec. 4, eff. September 1, 2011.

Art. 42.0183. NOTICE OF FAMILY VIOLENCE OFFENSES PROVIDED BY CLERK OF COURT. (a) This article applies only:

(1) to conviction or deferred adjudication granted on the basis of:

(A) an offense that constitutes family violence, as defined by Section 71.004, Family Code; or

(B) an offense under Title 5, Penal Code; and

(2) if the defendant is a member of the state military

forces or is serving in the armed forces of the United States in an active-duty status.

(b) As soon as possible after the date on which the defendant is convicted or granted deferred adjudication on the basis of an offense, the clerk of the court in which the conviction or deferred adjudication is entered shall provide written notice of the conviction or deferred adjudication to the staff judge advocate general or the provost marshal of the military installation to which the defendant is assigned with the intent that the commanding officer will be notified, as applicable.

Added by Acts 2011, 82nd Leg., R.S., Ch. 327 (H.B. 2624), Sec. 3, eff. September 1, 2011.

Redesignated from Code of Criminal Procedure, Art/Sec 42.0182 by Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.001(7), eff. September 1, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 147 (H.B. 1655), Sec. 1, eff. September 1, 2017.

Art. 42.019. MOTOR FUEL THEFT. (a) A judge shall enter an affirmative finding in the judgment in a case if the judge or jury, whichever is the finder of fact, determines beyond a reasonable doubt in the guilt or innocence phase of the trial of an offense under Section 31.03, Penal Code, that the defendant, in committing the offense:

(1) dispensed motor fuel into the fuel tank of a motor vehicle on the premises of an establishment at which motor fuel is offered for retail sale; and

(2) after dispensing the motor fuel, left the premises of the establishment without paying the establishment for the motor fuel.

(b) If a judge enters an affirmative finding as required by Subsection (a) and determines that the defendant has previously been convicted of an offense the judgment for which contains an affirmative finding under Subsection (a), the judge shall enter a special affirmative finding in the judgment in the case.

Added by Acts 2001, 77th Leg., ch. 359, Sec. 1, eff. Sept. 1, 2001.

Art. 42.0191. FINDING REGARDING VICTIMS OF TRAFFICKING OR OTHER ABUSE. (a) In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the papers in the case if the judge determines that, regardless of whether the conduct at issue is the subject of the prosecution or part of the same criminal episode as the conduct that is the subject of the prosecution, a victim in the trial:

(1) is or has been a victim of a severe form of trafficking in persons, as defined by 22 U.S.C. Section 7102(8); or

(2) has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described by 8 U.S.C. Section 1101(a)(15)(U)(iii).

(b) That part of the papers in the case containing an affirmative finding under this article:

(1) must include specific information identifying the victim, as available;

(2) may not include information identifying the victim's location; and

(3) is confidential, unless written consent for the release of the affirmative finding is obtained from the victim or, if the victim is younger than 18 years of age, the victim's parent or guardian.

Added by Acts 2007, 80th Leg., R.S., Ch. 849 (H.B. [1121](#)), Sec. 1, eff. June 15, 2007.

Art. 42.0192. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense described by Section [824.009](#), Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's employment described by Section [824.009](#)(b), Government Code, while a member of the Teacher Retirement System of Texas.

(b) A judge who makes the affirmative finding described by this article shall make the determination and provide the notice required by Section [824.009](#)(1), Government Code, as applicable.

Added by Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 4, eff. September 1, 2017.

Art. 42.0196. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense described by Section 810.002, Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the defendant is:

(1) a member of the elected class described by Section 810.002(b)(1), Government Code, while a member of the Employees Retirement System of Texas; or

(2) a holder of an elected office for which the defendant wholly or partly became eligible for membership in a public retirement system.

(b) A judge who makes the affirmative finding described by this article shall make the determination and provide the notice required by Section 810.002(k), Government Code.

Added by Acts 2017, 85th Leg., R.S., Ch. 443 (S.B. 500), Sec. 4, eff. June 6, 2017.

Art. 42.0197. FINDING REGARDING GANG-RELATED CONDUCT. In the trial of an offense, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the applicable conduct was engaged in as part of the activities of a criminal street gang as defined by Section 71.01, Penal Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 16, eff. September 1, 2009.

Art. 42.0198. FINDING REGARDING DELAY IN ARREST OF DEFENDANT. In the trial of an offense under Section 19.02, 22.011, or 22.021, Penal Code, on the motion of the attorney representing the state the judge shall make an affirmative finding of fact regarding the number of months that elapsed, if any, between the date an arrest warrant was issued for the defendant following an

indictment for the offense and the date the defendant was arrested for the offense. The judge shall enter the affirmative finding in the judgment in the case.

Added by Acts 2009, 81st Leg., R.S., Ch. 1400 (H.B. 221), Sec. 2, eff. September 1, 2009.

Art. 42.0199. FINDING REGARDING DILIGENT PARTICIPATION CREDIT. If a person is convicted of a state jail felony, the judge shall make a finding and enter the finding in the judgment of the case regarding whether the person is presumptively entitled to diligent participation credit in accordance with Article 42A.559.

Added by Acts 2015, 84th Leg., R.S., Ch. 225 (H.B. 1546), Sec. 1, eff. September 1, 2015.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 23.001, eff. September 1, 2017.

Art. 42.02. SENTENCE. The sentence is that part of the judgment, or order revoking a suspension of the imposition of a sentence, that orders that the punishment be carried into execution in the manner prescribed by law.

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

Amended by Acts 1981, 67th Leg., p. 809, ch. 291, Sec. 112, eff. Sept. 1, 1981; Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

Art. 42.023. JUDGE MAY CONSIDER ALTERNATIVE SENTENCING. Before pronouncing sentence on a defendant convicted of a criminal offense, the judge may consider whether the defendant should be committed for care and treatment under Section 462.081, Health and Safety Code.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

Art. 42.025. SENTENCING HEARING AT SECONDARY SCHOOL. (a) A judge may order the sentencing hearing of a defendant convicted of an offense involving possession, manufacture, or delivery of a

controlled substance under Chapter [481](#), Health and Safety Code, to be held at a secondary school if:

(1) the judge determines that the sentencing hearing would have educational value to students due to the nature of the offense and its consequences;

(2) the defendant agrees;

(3) the school administration agrees; and

(4) appropriate measures are taken to ensure:

(A) the safety of the students; and

(B) a fair hearing for the defendant that complies with all applicable laws and rules.

(b) A judge may, at a secondary school, receive a plea of guilty or nolo contendere from a defendant charged with an offense described by Subsection (a) and place the defendant on deferred adjudication under Subchapter C, Chapter [42A](#), if:

(1) the judge makes the determination that the proceeding would have educational value, as provided by Subsection (a)(1);

(2) the defendant and the school agree to the location of the proceeding, as provided by Subsections (a)(2) and (3); and

(3) appropriate measures are taken in regard to the safety of students and the rights of the defendant, as described by Subsection (a)(4).

Added by Acts 2011, 82nd Leg., R.S., Ch. 1280 (H.B. [1113](#)), Sec. 1, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.11, eff. January 1, 2017.

Art. 42.03. PRONOUNCING SENTENCE; TIME; CREDIT FOR TIME SPENT IN JAIL BETWEEN ARREST AND SENTENCE OR PENDING APPEAL.

Sec. 1. (a) Except as provided in Article [42.14](#), sentence shall be pronounced in the defendant's presence.

(b) The court shall permit a victim, close relative of a deceased victim, or guardian of a victim, as defined by Article [56.01](#) of this code, to appear in person to present to the court and to the defendant a statement of the person's views about the

offense, the defendant, and the effect of the offense on the victim. The victim, relative, or guardian may not direct questions to the defendant while making the statement. The court reporter may not transcribe the statement. The statement must be made:

(1) after punishment has been assessed and the court has determined whether or not to grant community supervision in the case;

(2) after the court has announced the terms and conditions of the sentence; and

(3) after sentence is pronounced.

Sec. 2. (a) In all criminal cases the judge of the court in which the defendant is convicted shall give the defendant credit on the defendant's sentence for the time that the defendant has spent:

(1) in jail for the case, including confinement served as described by Article 46B.009 and excluding confinement served as a condition of community supervision, from the time of his arrest and confinement until his sentence by the trial court;

(2) in a substance abuse treatment facility operated by the Texas Department of Criminal Justice under Section 493.009, Government Code, or another court-ordered residential program or facility as a condition of deferred adjudication community supervision granted in the case if the defendant successfully completes the treatment program at that facility; or

(3) confined in a mental health facility or residential care facility as described by Article 46B.009.

(b) In all revocations of a suspension of the imposition of a sentence the judge shall enter the restitution due and owing on the date of the revocation.

Sec. 3. If a defendant appeals his conviction, is not released on bail, and is retained in a jail as provided in Section 7, Article 42.09, pending his appeal, the judge of the court in which the defendant was convicted shall give the defendant credit on his sentence for the time that the defendant has spent in jail pending disposition of his appeal. The court shall endorse on both the commitment and the mandate from the appellate court all credit given the defendant under this section, and the Texas Department of Criminal Justice shall grant the credit in computing the

defendant's eligibility for parole and discharge.

Sec. 4. When a defendant who has been sentenced to imprisonment in the Texas Department of Criminal Justice has spent time in jail pending trial and sentence or pending appeal, the judge of the sentencing court shall direct the sheriff to attach to the commitment papers a statement assessing the defendant's conduct while in jail.

Sec. 5. Except as otherwise provided by Article 42A.106(b), the court after pronouncing the sentence shall inform the defendant of the defendant's right to petition the court for an order of nondisclosure of criminal history record information under Subchapter E-1, Chapter 411, Government Code, unless the defendant is ineligible to pursue that right because of the requirements that apply to obtaining the order in the defendant's circumstances, such as:

(1) the nature of the offense for which the defendant is convicted; or

(2) the defendant's criminal history.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1967, 60th Leg., p. 1743, ch. 659, Sec. 28, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 205, ch. 91, Sec. 1, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 1036, ch. 382, Sec. 1, eff. Aug. 29, 1977; Acts 1977, 65th Leg., p. 2076, ch. 827, Sec. 1, eff. Aug. 29, 1977.

Sec. 1 amended by Acts 1981, 67th Leg., p. 809, ch. 291, Sec. 113, eff. Sept. 1, 1981; Sec. 2 amended by Acts 1981, 67th Leg., p. 353, ch. 141, Sec. 1, eff. Sept. 1, 1981; Sec. 5 amended by Acts 1981, 67th Leg., p. 2418, ch. 616, Sec. 1, eff. Aug. 31, 1981; Sec. 5(a) amended by Acts 1983, 68th Leg., p. 4666, ch. 809, Sec. 1, eff. Aug. 29, 1983; Sec. 6 added by Acts 1983, 68th Leg., p. 3792, ch. 586, Sec. 4, eff. Aug. 29, 1983; Sec. 5(b), (d) amended by Acts 1985, 69th Leg., ch. 232, Sec. 13, eff. Sept. 1, 1985; Sec. 4 amended by Acts 1989, 71st Leg., ch. 785, Sec. 4.06, eff. June 15, 1989; Sec. 7 added by Acts 1989, 71st Leg., ch. 848, Sec. 1, eff. June 14, 1989; Acts 1989, 71st Leg., ch. 1040, Sec. 1, eff. Aug. 28, 1989; Sec. 8 added by Acts 1989, 71st Leg., ch. 1040, Sec. 2, eff. Aug. 28, 1989; Sec. 1 amended by Acts 1991, 72nd Leg., ch. 278, Sec. 1, eff. June 5, 1991; Sec. 2(a) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10,

Sec. 14.01, eff. Oct. 1, 1991; Sec. 7(a), (b), (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.02, eff. Oct. 1, 1991; Sec. 7A amended by Acts 1991, 72nd Leg., ch. 16, Sec. 4.05, eff. Aug. 26, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.03, eff. Oct. 1, 1991; Sec. 8(a) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.04, eff. Oct. 1, 1991; Sec. 8(f) added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 8.02, eff. Dec. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 15.03, eff. Oct. 1, 1991; Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993; Sec. 1(b) amended by Acts 1995, 74th Leg., ch. 556, Sec. 1, eff. Sept. 1, 1995; Sec. 8(g) repealed by Acts 2003, 78th Leg., ch. 406, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1205 (H.B. [1678](#)), Sec. 1, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.018, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 718 (H.B. [748](#)), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 822 (H.B. [2725](#)), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.12, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 1279 (S.B. [1902](#)), Sec. 15, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. [1488](#)), Sec. 23.002, eff. September 1, 2017.

Art. 42.031. WORK RELEASE PROGRAM.

Sec. 1. (a) The sheriff of each county may attempt to secure employment for each defendant sentenced to the county jail work release program under Article [42.034](#) and each defendant confined in the county jail awaiting transfer to the Texas Department of Criminal Justice.

(b) The employer of a defendant participating in a program under this article shall pay the defendant's salary to the sheriff. The sheriff shall deposit the salary into a special fund to be given

to the defendant on his release after deducting:

(1) the cost to the county for the defendant's confinement during the pay period based on the average daily cost of confining defendants in the county jail, as determined by the commissioners court of the county;

(2) support of the defendant's dependents; and

(3) restitution to the victims of an offense committed by the defendant.

(c) At the time of sentencing or at a later date, the court sentencing a defendant may direct the sheriff not to deduct the cost described under Subdivision (1) of Subsection (b) of this section or to deduct only a specified portion of the cost if the court determines that the full deduction would cause a significant financial hardship to the defendant's dependents.

(d) If the sheriff does not find employment for a defendant who would otherwise be sentenced to imprisonment in the department, the sheriff shall:

(1) transfer the defendant to the sheriff of a county who agrees to accept the defendant as a participant in the county jail work release program; or

(2) retain the defendant in the county jail for employment as soon as possible in a jail work release program.

Sec. 2. A defendant participating in a program under this article shall be confined in the county jail or in another facility designated by the sheriff at all times except for:

(1) time spent at work and traveling to or from work; and

(2) time spent attending or traveling to or from an education or rehabilitation program approved by the sheriff.

Sec. 3. (a) The sheriff of each county shall classify each felon serving a sentence in the county jail work release program for the purpose of awarding good conduct time credit in the same manner as inmates of the Texas Department of Criminal Justice are classified under Chapter 498, Government Code, and shall award good conduct time in the same manner as the director of the department does in that chapter.

(b) If the sheriff determines that the defendant is conducting himself in a manner that is dangerous to inmates in the

county jail or to society as a whole, the sheriff may remove the defendant from participation in the program pending a hearing before the sentencing court. At the hearing, if the court determines that the sheriff's assessment of the defendant's conduct is correct, the court may terminate the defendant's participation in the program and order the defendant to the term of imprisonment that the defendant would have received had he not entered the program. If the court determines that the sheriff's assessment is incorrect, the court shall order the sheriff to readmit the defendant to the program. A defendant shall receive as credit toward his sentence any time served as a participant in the program. Added by Acts 1989, 71st Leg., ch. 2, Sec. 5.03(a), eff. Aug. 28, 1989. Sec. 1 amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.10, eff. Oct. 1, 1991; Sec. 3 amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.11, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.019, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.020, eff. September 1, 2009.

Art. 42.032. GOOD CONDUCT.

Sec. 1. To encourage county jail discipline, a distinction may be made to give orderly, industrious, and obedient defendants the comforts and privileges they deserve. The reward for good conduct may consist of a relaxation of strict county jail rules and extension of social privileges consistent with proper discipline.

Sec. 2. The sheriff in charge of each county jail may grant commutation of time for good conduct, industry, and obedience. A deduction not to exceed one day for each day of the original sentence actually served may be made for the term or terms of sentences if a charge of misconduct has not been sustained against the defendant.

Sec. 3. This article applies whether or not the judgment of conviction is a fine or jail sentence or both, but the deduction in time may not exceed one-third of the original sentence as to fines

and court costs assessed in the judgment of conviction.

Sec. 4. A defendant serving two or more cumulative sentences shall be allowed commutation as if the sentences were one sentence.

Sec. 5. Any part or all of the commutation accrued under this article may be forfeited and taken away by the sheriff:

(1) for a sustained charge of misconduct in violation of any rule known to the defendant, including escape or attempt to escape, if the sheriff has complied with discipline proceedings as approved by the Commission on Jail Standards;

(2) on receipt by the sheriff of a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit brought by a defendant while the defendant was in the custody of the sheriff; or

(3) if the defendant, in violation of an order entered under Article [42.24](#), contacts the victim of the offense for which the defendant is serving a sentence or a member of the victim's family.

Sec. 6. Repealed by Acts 2009, 81st Leg., R.S., Ch. 854, Sec. 7, eff. June 19, 2009.

Sec. 7. The sheriff shall keep a conduct record in card or ledger form and a calendar card on each defendant showing all forfeitures of commutation time and the reasons for the forfeitures.

Added by Acts 1989, 71st Leg., ch. 2, Sec. 5.04(a), eff. Aug. 28, 1989. Amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.05, eff. Oct. 1, 1991; Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993; Sec. 5 amended by Acts 1999, 76th Leg., ch. 655, Sec. 2(a), eff. June 18, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 854 (S.B. [2340](#)), Sec. 7, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 491 (H.B. [1028](#)), Sec. 2, eff. September 1, 2011.

Art. 42.033. SENTENCE TO SERVE TIME DURING OFF-WORK HOURS.

(a) Where jail time has been awarded to a person sentenced for a misdemeanor or sentenced to confinement in the county jail for a

felony or when a defendant is serving a period of confinement as a condition of community supervision, the trial judge, at the time of the pronouncement of sentence or at any time while the defendant is serving the sentence or period of confinement, when in the judge's discretion the ends of justice would best be served, may permit the defendant to serve the defendant's sentence or period of confinement intermittently during his off-work hours or on weekends. The judge may require bail of the defendant to ensure the faithful performance of the sentence or period of confinement. The judge may attach conditions regarding the employment, travel, and other conduct of the defendant during the performance of such a sentence or period of confinement.

(b) The court may impose as a condition to permitting a defendant to serve the jail time assessed or period of confinement intermittently an additional requirement that the defendant make any of the following payments to the court, agencies, or persons, or that the defendant execute a letter and direct it to the defendant's employer directing the employer to deduct from the defendant's salary an amount directed by the court, which is to be sent by the employer to the clerk of the court. The money received by the court under this section may be used to pay the following expenses as directed by the court:

- (1) the support of the defendant's dependents, if necessary;
- (2) the defendant's documented personal, business, and travel expenses;
- (3) reimbursement of the general fund of the county for the maintenance of the defendant in jail; and
- (4) installment payments on restitution, fines, and court costs ordered by the court.

(c) The condition imposed under Subsection (b) of this article is not binding on an employer, except that income withheld for child support is governed by Chapter 158, Family Code.

(d) The court may permit the defendant to serve the defendant's sentence or period of confinement intermittently in order for the defendant to continue employment if the court imposes confinement for failure to pay a fine or court costs, as punishment for criminal nonsupport under Section 25.05, Penal Code, or for

contempt of a court order for periodic payments for the support of a child.

(e) The court may permit the defendant to seek employment or obtain medical, psychological, or substance abuse treatment or counseling or obtain training or needed education under the same terms and conditions that apply to employment under this article.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 4.07, eff. Sept. 1, 1989. Subsecs. (a), (b), (d) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.06, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993. Subsec. (c) amended by Acts 1997, 75th Leg., ch. 165, Sec. 7.03, eff. Sept. 1, 1997.

Art. 42.034. COUNTY JAIL WORK RELEASE PROGRAM. (a) If jail time has been awarded to a person sentenced for a misdemeanor or sentenced to confinement in the county jail for a felony, the trial judge at the time of pronouncement of sentence or at any time while the defendant is serving the sentence, when in the judge's discretion the ends of justice would best be served, may require the defendant to serve an alternate term for the same period of time in the county jail work release program of the county in which the offense occurred, if the person is classified by the sheriff as a low-risk offender under the classification system developed by the Commission on Jail Standards under Section [511.009](#), Government Code.

(b) The sheriff shall provide a classification report for a defendant to a judge as necessary so that the judge can determine whether to require the defendant to participate in the work release program under this article.

(c) A defendant sentenced under this article who would otherwise be sentenced to confinement in jail may earn good conduct credit in the same manner as provided by Article [42.032](#) of this code, but only while actually confined.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 4.08, eff. Sept. 1, 1989. Subsecs. (a), (b) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.07, eff. Oct. 1, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993; Acts 1995, 74th Leg.,

Art. 42.035. ELECTRONIC MONITORING; HOUSE ARREST. (a) A court may require a defendant to serve all or part of a sentence of confinement in county jail by participating in an electronic monitoring program rather than being confined in the county jail, if the program:

(1) is operated by a community supervision and corrections department that serves the county in which the court is located and has been approved by the community justice assistance division of the Texas Department of Criminal Justice; or

(2) is operated by the commissioners court of the county, or by a private vendor under contract with the commissioners court, under Section 351.904, Local Government Code, if the defendant has not been placed on community supervision.

(b) A judge, at the time of the pronouncement of a sentence of confinement or at any time while the defendant is serving the sentence, on the judge's own motion or on the written motion of the defendant, may permit the defendant to serve the sentence under house arrest, including electronic monitoring and any other conditions the court chooses to impose, during the person's off-work hours. The judge may require bail of the defendant to ensure the faithful performance of the sentence.

(c) The court may require the defendant to pay to the community supervision and corrections department or the county any reasonable cost incurred because of the defendant's participation in the house arrest program, including the cost of electronic monitoring.

(d) A defendant who submits to electronic monitoring or participates in the house arrest program under this article discharges a sentence of confinement in the same manner as if the defendant were confined in county jail.

(e) A court may revoke a defendant's participation in an electronic monitoring program and require the defendant to serve the remainder of the defendant's sentence of confinement in county jail if the defendant violates a condition imposed by a court under this article, including a condition requiring the defendant to pay

for participating in the program under Subsection (c).

Added by Acts 1989, 71st Leg., ch. 785, Sec. 4.09, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 854 (S.B. [2340](#)), Sec. 1, eff. June 19, 2009.

Art. 42.036. COMMUNITY SERVICE. (a) A court may require a defendant, other than a defendant convicted of an offense under Sections 49.04-49.08, Penal Code, to serve all or part of a sentence of confinement or period of confinement required as a condition of community supervision in county jail by performing community service rather than by being confined in county jail unless the sentence of confinement was imposed by the jury in the case.

(b) In its order requiring a defendant to participate in community service work, the court must specify:

(1) the number of hours the defendant is required to work; and

(2) the entity or organization for which the defendant is required to work.

(c) The court may order the defendant to perform community service work under this article only for a governmental entity or a nonprofit organization that provides services to the general public that enhance social welfare and the general well-being of the community. A governmental entity or nonprofit organization that accepts a defendant under this section to perform community service must agree to supervise the defendant in the performance of the defendant's work and report on the defendant's work to the community supervision and corrections department or court-related services office.

(d) The court may require bail of a defendant to ensure the defendant's faithful performance of community service and may attach conditions to the bail as it determines are proper.

(e) A court may not order a defendant who is employed to perform more than 16 hours per week of community service under this article unless the court determines that requiring the defendant to

work additional hours does not work a hardship on the defendant or the defendant's dependents. A court may not order a defendant who is unemployed to perform more than 32 hours per week of community service under this article, but may direct the defendant to use the remaining hours of the week to seek employment.

(f) A defendant is considered to have served one day in jail for each eight hours of community service performed under this article.

(g) Deleted by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

(h) Repealed by Acts 1995, 74th Leg., ch. 76, Sec. 3.14, eff. Sept. 1, 1995.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 4.10, eff. Sept. 1, 1989. Subsec. (f) amended by Acts 1990, 71st Leg., 6th C.S., ch. 25, Sec. 27, eff. June 18, 1990; Subsec. (a) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 14.08, eff. Oct. 1, 1991; Subsec. (h) added by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 15.01, eff. Oct. 1, 1991; Subsec. (h) amended by Acts 1993, 73rd Leg., ch. 201, Sec. 2, eff. Aug. 30, 1993. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993; Subsec. (h) repealed by Acts 1995, 74th Leg., ch. 76, Sec. 3.14, eff. Sept. 1, 1995.

Art. 42.037. RESTITUTION. (a) In addition to any fine authorized by law, the court that sentences a defendant convicted of an offense may order the defendant to make restitution to any victim of the offense or to the compensation to victims of crime fund established under Subchapter B, Chapter 56, to the extent that fund has paid compensation to or on behalf of the victim. If the court does not order restitution or orders partial restitution under this subsection, the court shall state on the record the reasons for not making the order or for the limited order.

(b)(1) If the offense results in damage to or loss or destruction of property of a victim of the offense, the court may order the defendant:

(A) to return the property to the owner of the property or someone designated by the owner; or

(B) if return of the property is impossible or

impractical or is an inadequate remedy, to pay an amount equal to the greater of:

(i) the value of the property on the date of the damage, loss, or destruction; or

(ii) the value of the property on the date of sentencing, less the value of any part of the property that is returned on the date the property is returned.

(2) If the offense results in personal injury to a victim, the court may order the defendant to make restitution to:

(A) the victim for any expenses incurred by the victim as a result of the offense; or

(B) the compensation to victims of crime fund to the extent that fund has paid compensation to or on behalf of the victim.

(3) If the victim or the victim's estate consents, the court may, in addition to an order under Subdivision (2), order the defendant to make restitution by performing services instead of by paying money or make restitution to a person or organization, other than the compensation to victims of crime fund, designated by the victim or the estate.

(c) The court, in determining whether to order restitution and the amount of restitution, shall consider:

(1) the amount of the loss sustained by any victim and the amount paid to or on behalf of the victim by the compensation to victims of crime fund as a result of the offense; and

(2) other factors the court deems appropriate.

(d) If the court orders restitution under this article and the victim is deceased the court shall order the defendant to make restitution to the victim's estate.

(e) The court shall impose an order of restitution that is as fair as possible to the victim or to the compensation to victims of crime fund, as applicable. The imposition of the order may not unduly complicate or prolong the sentencing process.

(f)(1) The court may not order restitution for a loss for which the victim has received or will receive compensation only from a source other than the compensation to victims of crime fund. The court may, in the interest of justice, order restitution

to any person who has compensated the victim for the loss to the extent the person paid compensation. An order of restitution shall require that all restitution to a victim or to the compensation to victims of crime fund be made before any restitution to any other person is made under the order.

(2) Any amount recovered by a victim from a person ordered to pay restitution in a federal or state civil proceeding is reduced by any amount previously paid to the victim by the person under an order of restitution.

(g)(1) The court may require a defendant to make restitution under this article within a specified period or in specified installments. If the court requires the defendant to make restitution in specified installments, in addition to the installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the specified installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.

(2) The end of the period or the last installment may not be later than:

(A) the end of the period of probation, if probation is ordered;

(B) five years after the end of the term of imprisonment imposed, if the court does not order probation; or

(C) five years after the date of sentencing in any other case.

(3) If the court does not provide otherwise, the defendant shall make restitution immediately.

(4) Except as provided by Subsection (n), the order of restitution must require the defendant to: (i) make restitution directly to the person or agency that will accept and forward restitution payments to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; (ii) make restitution directly to the victim or other person eligible for restitution under this article, including the compensation to victims of crime fund; or (iii) deliver the amount or property due as restitution to a community

supervision and corrections department for transfer to the victim or person.

(h) If a defendant is placed on community supervision or is paroled or released on mandatory supervision, the court or the parole panel shall order the payment of restitution ordered under this article as a condition of community supervision, parole, or mandatory supervision. The court may revoke community supervision and the parole panel may revoke parole or mandatory supervision if the defendant fails to comply with the order. In determining whether to revoke community supervision, parole, or mandatory supervision, the court or parole panel shall consider:

- (1) the defendant's employment status;
- (2) the defendant's current and future earning ability;
- (3) the defendant's current and future financial resources;
- (4) the willfulness of the defendant's failure to pay;
- (5) any other special circumstances that may affect the defendant's ability to pay; and
- (6) the victim's financial resources or ability to pay expenses incurred by the victim as a result of the offense.

(i) In addition to any other terms and conditions of community supervision imposed under Chapter 42A, the court may require a defendant to reimburse the compensation to victims of crime fund created under Subchapter B, Chapter 56, for any amounts paid from that fund to or on behalf of a victim of the defendant's offense. In this subsection, "victim" has the meaning assigned by Article 56.32.

(j) The court may order a community supervision and corrections department to obtain information pertaining to the factors listed in Subsection (c). The supervision officer shall include the information in the report required under Article 42A.252(a) or a separate report, as the court directs. The court shall permit the defendant and the prosecuting attorney to read the report.

(k) The court shall resolve any dispute relating to the proper amount or type of restitution. The standard of proof is a

preponderance of the evidence. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the prosecuting attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant and the defendant's dependents is on the defendant. The burden of demonstrating other matters as the court deems appropriate is on the party designated by the court as justice requires.

(l) Conviction of a defendant for an offense involving the act giving rise to restitution under this article estops the defendant from denying the essential allegations of that offense in any subsequent federal civil proceeding or state civil proceeding brought by the victim, to the extent consistent with state law.

(m) An order of restitution may be enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(n) If a defendant is convicted of or receives deferred adjudication for an offense under Section 25.05, Penal Code, if the child support order on which prosecution of the offense was based required the defendant to pay the support to a local registry or the Title IV-D agency, and if the court orders restitution under this article, the order of restitution must require the defendant to pay the child support in the following manner:

(1) during any period in which the defendant is under the supervision of a community supervision and corrections department, to the department for transfer to the local registry or Title IV-D agency designated as the place of payment in the child support order; and

(2) during any period in which the defendant is not under the supervision of a department, directly to the registry or agency described by Subdivision (1).

(o) The department may waive a supervision fee or an administrative fee imposed on an inmate under Section 508.182, Government Code, during any period in which the inmate is required to pay restitution under this article.

(p)(1) A court shall order a defendant convicted of an offense under Section 28.03(f), Penal Code, involving damage or

destruction inflicted on a place of human burial or under Section 42.08, Penal Code, to make restitution in the amount described by Subsection (b)(1)(B) to a cemetery organization operating a cemetery affected by the commission of the offense.

(2) If a court orders an unemancipated minor to make restitution under Subsection (a) and the minor is financially unable to make the restitution, the court may order:

(A) the minor to perform a specific number of hours of community service to satisfy the restitution; or

(B) the parents or other person responsible for the minor's support to make the restitution in the amount described by Subsection (b)(1)(B).

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

(q) The court shall order a defendant convicted of an offense under Section 22.11, Penal Code, to make restitution to the victim of the offense or the victim's employer in an amount equal to the sum of any expenses incurred by the victim or employer to:

(1) test the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code; or

(2) treat the victim for HIV, hepatitis A, hepatitis B, tuberculosis, or any other disease designated as a reportable disease under Section 81.048, Health and Safety Code, the victim contracts as a result of the offense.

(r) The court may order a defendant convicted of an offense under Section 43.26, Penal Code, to make restitution to an individual who as a child younger than 18 years of age was depicted in the visual material, in an amount equal to the expenses incurred by the individual as a result of the offense, including:

(1) medical services relating to physical, psychiatric, or psychological care;

(2) physical and occupational therapy or rehabilitation;

(3) necessary transportation, temporary housing, and child care expenses;

(4) lost income; and

(5) attorney's fees.

(s)(1) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution by:

(A) reimbursing the owner of the property for the cost of restoring the property; or

(B) with the consent of the owner of the property, personally restoring the property by removing or painting over any markings the defendant made.

(2) A court shall order a defendant convicted of an offense under Section 28.08, Penal Code, to make restitution to a political subdivision that owns public property or erects a street sign or official traffic-control device on which the defendant makes markings in violation of Section 28.08, Penal Code, by:

(A) paying an amount equal to the lesser of the cost to the political subdivision of replacing or restoring the public property, street sign, or official traffic-control device; or

(B) with the consent of the political subdivision, restoring the public property, street sign, or official traffic-control device by removing or painting over any markings made by the defendant on the property, sign, or device.

(3) If the court orders a defendant to make restitution under this subsection and the defendant is financially unable to make the restitution, the court may order the defendant to perform a specific number of hours of community service to satisfy the restitution.

(4) Notwithstanding Subsection (g)(4), a court shall direct a defendant ordered to make restitution under this subsection as a condition of community supervision to deliver the amount or property due as restitution to the defendant's supervising officer for transfer to the owner. A parole panel shall direct a defendant ordered to make restitution under this subsection as a condition of parole or mandatory supervision to deliver the amount or property due as restitution to the defendant's supervising officer. The defendant's supervising officer shall notify the court when the defendant has delivered the

full amount of restitution ordered.

(5) For purposes of this subsection, "official traffic-control device" has the meaning assigned by Section [541.304](#), Transportation Code.

(t) If a person is convicted of an offense under Section [641.054](#), Business and Commerce Code, the court shall order the person to make restitution to an owner or lawful producer of a master recording that has suffered financial loss as a result of the offense or to a trade association that represents that owner or lawful producer. The amount of restitution ordered shall be:

(1) the greater of:

(A) the aggregate wholesale value of the lawfully manufactured and authorized recordings corresponding to the number of nonconforming recordings involved in the offense; or

(B) the actual financial loss to the owner, lawful producer, or trade association; and

(2) the costs associated with investigating the offense.

(u) For purposes of Subsection (t)(1)(A):

(1) the calculation of the aggregate wholesale value is based on the average wholesale value of the lawfully manufactured and authorized recordings; and

(2) the specific wholesale value of each nonconforming recording is not relevant to the calculation.

(v) For purposes of Subsection (t)(1)(B), the possession of a nonconforming recording intended for sale constitutes an actual financial loss to an owner or lawful producer equal to the actual value of the legitimate wholesale purchases displaced by the nonconforming recordings.

Added by Acts 1993, 73rd Leg., ch. 806, Sec. 1, eff. Sept. 1, 1993. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 318, Sec. 51, eff. Sept. 1, 1995; Subsec. (i) amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(111), eff. Sept. 1, 1995; Subsec. (g)(4) amended by Acts 1999, 76th Leg., ch. 40, Sec. 2, eff. Sept. 1, 1999; Subsec. (n) added by Acts 1999, 76th Leg., ch. 40, Sec. 3, eff. Sept. 1, 1999; Subsec. (h) amended by Acts 2001, 77th Leg., ch. 856, Sec. 10, eff. Sept. 1, 2001; Subsec. (o) added by Acts 2001, 77th Leg., ch. 1034,

Sec. 2, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 543 (H.B. [1095](#)), Sec. 4, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 969 (H.B. [1751](#)), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1025 (H.B. [1012](#)), Sec. 2, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 921 (H.B. [3167](#)), Sec. 17.001(10), eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1053 (H.B. [2151](#)), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.021, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 639 (H.B. [1633](#)), Sec. 1, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1040 (H.B. [4464](#)), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.13, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 933 (H.B. [2291](#)), Sec. 1, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 913 (S.B. [1343](#)), Sec. 4, eff. September 1, 2017.

Art. 42.0371. MANDATORY RESTITUTION FOR KIDNAPPED OR ABDUCTED CHILDREN. (a) The court shall order a defendant convicted of an offense under Chapter [20](#), Penal Code, or Section [25.03](#), [25.031](#), or [25.04](#), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for the victim of the offense if the victim is younger than 17 years of age.

(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) A restitution order issued under Subsection (a) may be

enforced by the state or a victim named in the order to receive the restitution in the same manner as a judgment in a civil action.

(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

Added by Acts 1999, 76th Leg., ch. 657, Sec. 1, eff. Sept. 1, 1999.

Art. 42.0372. MANDATORY RESTITUTION FOR CHILD VICTIMS OF TRAFFICKING OF PERSONS OR COMPELLING PROSTITUTION. (a) The court shall order a defendant convicted of an offense under Section [20A.02](#) or [43.05](#)(a)(2), Penal Code, to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for any victim of the offense who is younger than 18 years of age.

(b) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must pay the restitution.

(c) A restitution order issued under Subsection (a) may be enforced by the state, or by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(d) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (a) if the defendant fails to pay the victim named in the order in the manner specified by the court.

Added by Acts 2011, 82nd Leg., R.S., Ch. 515 (H.B. [2014](#)), Sec. 2.02, eff. September 1, 2011.

Art. 42.0373. MANDATORY RESTITUTION FOR CHILD WITNESS OF FAMILY VIOLENCE. (a) If after a conviction or a grant of deferred adjudication a court places a defendant on community supervision for an offense involving family violence, as defined by Section [71.004](#), Family Code, the court shall determine from the complaint, information, indictment, or other charging instrument, the presentence report, or other evidence before the court whether:

(1) the offense was committed in the physical presence

of, or in the same habitation or vehicle occupied by, a person younger than 15 years of age; and

(2) at the time of the offense, the defendant had knowledge or reason to know that the person younger than 15 years of age was physically present or occupied the same habitation or vehicle.

(b) If the court determines both issues described by Subsection (a) in the affirmative, the court shall order the defendant to pay restitution in an amount equal to the cost of necessary rehabilitation, including medical, psychiatric, and psychological care and treatment, for a person described by Subsection (a)(1).

(c) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (b) the manner in which the defendant must pay the restitution. The order must require restitution payments to be delivered in the manner described by Article 42.037(g)(4)(iii).

(d) A restitution order issued under Subsection (b) may be enforced by the state, or by a person or a parent or guardian of the person named in the order to receive the restitution, in the same manner as a judgment in a civil action.

(e) The court may hold a hearing, make findings of fact, and amend a restitution order issued under Subsection (b) if the defendant fails to pay the person named in the order in the manner specified by the court.

(f) A determination under this article may not be entered as an affirmative finding in the judgment for the offense for which the defendant was placed on community supervision.

Added by Acts 2015, 84th Leg., R.S., Ch. 1061 (H.B. 2159), Sec. 1, eff. September 1, 2015.

Art. 42.038. REIMBURSEMENT FOR CONFINEMENT EXPENSES. (a) In addition to any fine, cost, or fee authorized by law, a court that sentences a defendant convicted of a misdemeanor to serve a term of confinement in county jail and orders execution of the sentence may require the defendant to reimburse the county for the defendant's confinement at a rate of \$25 a day.

(b) A court that requires a defendant convicted of a misdemeanor or placed on deferred adjudication for a misdemeanor to submit to a period of confinement in county jail as a condition of community supervision may also require as a condition of community supervision that the defendant reimburse the county for the defendant's confinement, with the amount of reimbursement determined as if the defendant were serving an executed sentence.

(c) A judge may not require reimbursement under this article if the judge determines the defendant is indigent based on the defendant's sworn statement or affidavit filed with the court. A court that requires reimbursement under this article may require the defendant to reimburse the county only for those days the defendant is confined after the date of conviction or on which a plea of guilty or nolo contendere was entered. The court may not require a defendant to reimburse the county for those days the defendant was confined after arrest and before the date of conviction or on which the plea of guilty or nolo contendere was entered.

(d) The court, in determining whether to order reimbursement under this article, shall consider:

(1) the defendant's employment status, earning ability, and financial resources; and

(2) any other special circumstances that may affect the defendant's ability to pay, including child support obligations and including any financial responsibilities owed by the defendant to dependents or restitution payments owed by the defendant to a victim.

(e) On the day on which a defendant who is required to reimburse the county under this article discharges an executed sentence of confinement or completes the period of confinement required as a condition of community supervision, the sheriff shall present to the defendant a bill computed by multiplying the daily rate of \$25 times the number of days the defendant was confined in the county jail, not counting the day on which the execution of the sentence or the period of confinement began. For purposes of this subsection, a defendant who is confined in county jail for only a portion of a day is nonetheless considered to have been confined for

the whole day.

(f) The court may require a defendant to reimburse the county under this article by paying to the sheriff the bill presented by the sheriff within a specified period or in specified installments. The end of the period or the last installment may not be later than:

(1) the end of the period of community supervision, if community supervision is ordered; or

(2) the fifth anniversary of the last day of the term of confinement, if the court does not order community supervision.

Added by Acts 1999, 76th Leg., ch. 295, Sec. 1, eff. Sept. 1, 1999.

Art. 42.039. COMPLETION OF SENTENCE IN FEDERAL CUSTODY.

(a) This article applies only to a criminal case in which:

(1) the judgment requires the defendant to be confined in a secure correctional facility; and

(2) the defendant is subject to an immigration detainer request.

(b) In a criminal case described by Subsection (a), the judge shall, at the time of pronouncement of a sentence of confinement, issue an order requiring the secure correctional facility in which the defendant is to be confined and all appropriate government officers, including a sheriff, a warden, or members of the Board of Pardons and Paroles, as appropriate, to require the defendant to serve in federal custody the final portion of the defendant's sentence, not to exceed a period of seven days, following the facility's or officer's determination that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody. In the absence of an order issued under this subsection, a facility or officer acting under exigent circumstances may perform the transfer after making the determination described by this subsection. This subsection applies only if appropriate officers of the federal government consent to the transfer of the defendant into federal custody under the circumstances described by this subsection.

(c) If the applicable information described by Subsection (a)(2) is not available at the time sentence is pronounced in the case, the judge shall issue the order described by Subsection (b) as

soon as the information becomes available. The judge retains jurisdiction for the purpose of issuing an order under this article.

(d) For purposes of this article, "secure correctional facility" has the meaning assigned by Section 1.07, Penal Code. Added by Acts 2017, 85th Leg., R.S., Ch. 4 (S.B. 4), Sec. 2.02, eff. September 1, 2017.

Art. 42.04. SENTENCE WHEN APPEAL IS TAKEN. When a defendant is sentenced to death, no date shall be set for the execution of sentence until after the receipt by the clerk of the trial court of the mandate of affirmance of the court of criminal appeals. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1981, 67th Leg., p. 809, ch. 291, Sec. 114, eff. Sept. 1, 1981.

Art. 42.05. IF COURT IS ABOUT TO ADJOURN. The time limit within which any act is to be done within the meaning of this Code shall not be affected by the expiration of the term of the court. Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722.

Art. 42.07. REASONS TO PREVENT SENTENCE. Before pronouncing sentence, the defendant shall be asked whether he has anything to say why the sentence should not be pronounced against him. The only reasons which can be shown, on account of which sentence cannot be pronounced, are:

1. That the defendant has received a pardon from the proper authority, on the presentation of which, legally authenticated, he shall be discharged.

2. That the defendant is incompetent to stand trial; and if evidence be shown to support a finding of incompetency to stand trial, no sentence shall be pronounced, and the court shall proceed under Chapter 46B; and

3. When a person who has been convicted escapes after conviction and before sentence and an individual supposed to be the same has been arrested he may before sentence is pronounced, deny that he is the person convicted, and an issue be accordingly tried

before a jury, or before the court if a jury is waived, as to his identity.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1975, 64th Leg., p. 1102, ch. 415, Sec. 3, eff. June 19, 1975.

Amended by Acts 1981, 67th Leg., p. 810, ch. 291, Sec. 115, eff. Sept. 1, 1981; Acts 2003, 78th Leg., ch. 35, Sec. 3, eff. Jan. 1, 2004.

Art. 42.08. CUMULATIVE OR CONCURRENT SENTENCE. (a) When the same defendant has been convicted in two or more cases, judgment and sentence shall be pronounced in each case in the same manner as if there had been but one conviction. Except as provided by Subsections (b) and (c), in the discretion of the court, the judgment in the second and subsequent convictions may either be that the sentence imposed or suspended shall begin when the judgment and the sentence imposed or suspended in the preceding conviction has ceased to operate, or that the sentence imposed or suspended shall run concurrently with the other case or cases, and sentence and execution shall be accordingly; provided, however, that the cumulative total of suspended sentences in felony cases shall not exceed 10 years, and the cumulative total of suspended sentences in misdemeanor cases shall not exceed the maximum period of confinement in jail applicable to the misdemeanor offenses, though in no event more than three years, including extensions of periods of community supervision under Article [42A.752\(a\)\(2\)](#), if none of the offenses are offenses under Chapter [49](#), Penal Code, or four years, including extensions, if any of the offenses are offenses under Chapter [49](#), Penal Code.

(b) If a defendant is sentenced for an offense committed while the defendant was an inmate in the Texas Department of Criminal Justice and serving a sentence for an offense other than a state jail felony and the defendant has not completed the sentence he was serving at the time of the offense, the judge shall order the sentence for the subsequent offense to commence immediately on completion of the sentence for the original offense.

(c) If a defendant has been convicted in two or more cases and the court suspends the imposition of the sentence in one of the

cases, the court may not order a sentence of confinement to commence on the completion of a suspended sentence for an offense.

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

Amended by Acts 1985, 69th Leg., ch. 29, Sec. 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 513, Sec. 1, eff. Aug. 31, 1987; Subsec. (a) amended by Acts 1989, 71st Leg., ch. 785, Sec. 4.11, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.022, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.14, eff. January 1, 2017.

Art. 42.09. COMMENCEMENT OF SENTENCE; STATUS DURING APPEAL; PEN PACKET.

Sec. 1. Except as provided in Sections 2 and 3, a defendant shall be delivered to a jail or to the Texas Department of Criminal Justice when his sentence is pronounced, or his sentence to death is announced, by the court. The defendant's sentence begins to run on the day it is pronounced, but with all credits, if any, allowed by Article [42.03](#).

Sec. 2. If a defendant appeals his conviction and is released on bail pending disposition of his appeal, when his conviction is affirmed, the clerk of the trial court, on receipt of the mandate from the appellate court, shall issue a commitment against the defendant. The officer executing the commitment shall endorse thereon the date he takes the defendant into custody and the defendant's sentence begins to run from the date endorsed on the commitment. The Texas Department of Criminal Justice shall admit the defendant named in the commitment on the basis of the commitment.

Sec. 3. If a defendant convicted of a felony is sentenced to death or to life in the Texas Department of Criminal Justice or is ineligible for release on bail pending appeal under Article [44.04](#)(b) and gives notice of appeal, the defendant shall be transferred to the department on a commitment pending a mandate

from the court of appeals or the Court of Criminal Appeals.

Sec. 4. If a defendant is convicted of a felony, is eligible for release on bail pending appeal under Article 44.04(b), and gives notice of appeal, he shall be transferred to the Texas Department of Criminal Justice on a commitment pending a mandate from the Court of Appeals or the Court of Criminal Appeals upon request in open court or upon written request to the sentencing court. Upon a valid transfer to the department under this section, the defendant may not thereafter be released on bail pending his appeal.

Sec. 5. If a defendant is transferred to the Texas Department of Criminal Justice pending appeal under Section 3 or 4, his sentence shall be computed as if no appeal had been taken if the appeal is affirmed.

Sec. 6. All defendants who have been transferred to the Texas Department of Criminal Justice pending the appeal of their convictions under this article shall be under the control and authority of the department for all purposes as if no appeal were pending.

Sec. 7. If a defendant is sentenced to a term of imprisonment in the Texas Department of Criminal Justice but is not transferred to the department under Section 3 or 4, the court, before the date on which it would lose jurisdiction under Article 42A.202(a), shall send to the department a document containing a statement of the date on which the defendant's sentence was pronounced and credits earned by the defendant under Article 42.03 as of the date of the statement.

Sec. 8.

(a) A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall deliver to an officer designated by the department:

(1) a copy of the judgment entered pursuant to Article 42.01, completed on a standardized felony judgment form described by Section 4 of that article;

(2) a copy of any order revoking community supervision and imposing sentence pursuant to Article 42A.755, including:

(A) any amounts owed for restitution, fines, and

court costs, completed on a standardized felony judgment form described by Section 4, Article 42.01; and

(B) a copy of the client supervision plan prepared for the defendant by the community supervision and corrections department supervising the defendant, if such a plan was prepared;

(3) a written report that states the nature and the seriousness of each offense and that states the citation to the provision or provisions of the Penal Code or other law under which the defendant was convicted;

(4) a copy of the victim impact statement, if one has been prepared in the case under Article 56.03;

(5) a statement as to whether there was a change in venue in the case and, if so, the names of the county prosecuting the offense and the county in which the case was tried;

(6) if requested, information regarding the criminal history of the defendant, including the defendant's state identification number if the number has been issued;

(7) a copy of the indictment or information for each offense;

(8) a checklist sent by the department to the county and completed by the county in a manner indicating that the documents required by this subsection and Subsection (c) accompany the defendant;

(9) if prepared, a copy of a presentence or postsentence report prepared under Subchapter F, Chapter 42A;

(10) a copy of any detainer, issued by an agency of the federal government, that is in the possession of the county and that has been placed on the defendant;

(11) if prepared, a copy of the defendant's Texas Uniform Health Status Update Form; and

(12) a written description of a hold or warrant, issued by any other jurisdiction, that the county is aware of and that has been placed on or issued for the defendant.

(b) The Texas Department of Criminal Justice shall not take a defendant into custody under this article until the designated officer receives the documents required by Subsections (a) and (c)

of this section. The designated officer shall certify under the seal of the department the documents received under Subsections (a) and (c) of this section. A document certified under this subsection is self-authenticated for the purposes of Rules 901 and 902, Texas Rules of Evidence.

(c) A county that transfers a defendant to the Texas Department of Criminal Justice under this article shall also deliver to the designated officer any presentence or postsentence investigation report, revocation report, psychological or psychiatric evaluation of the defendant, including an evaluation prepared for the juvenile court before transferring the defendant to criminal court and contained in the criminal prosecutor's file, and available social or psychological background information relating to the defendant and may deliver to the designated officer any additional information upon which the judge or jury bases the punishment decision.

(d) The correctional institutions division of the Texas Department of Criminal Justice shall make documents received under Subsections (a) and (c) available to the parole division on the request of the parole division and shall, on release of a defendant on parole or to mandatory supervision, immediately provide the parole division with copies of documents received under Subsection (a). The parole division shall provide to the parole officer appointed to supervise the defendant a comprehensive summary of the information contained in the documents referenced in this section not later than the 14th day after the date of the defendant's release. The summary shall include a current photograph of the defendant and a complete set of the defendant's fingerprints. Upon written request from the county sheriff, the photograph and fingerprints shall be filed with the sheriff of the county to which the parolee is assigned if that county is not the county from which the parolee was sentenced.

(e) A county is not required to deliver separate documents containing information relating to citations to provisions of the Penal Code or other law and to changes of venue, as otherwise required by Subsections (a)(3) and (a)(5) of this article, if the standardized felony judgment form described by Section 4, Article

42.01, of this code is modified to require that information.

(f) Except as provided by Subsection (g) of this section, the county sheriff is responsible for ensuring that documents and information required by this section accompany defendants sentenced by district courts in the county to the Texas Department of Criminal Justice.

(g) If the presiding judge of the administrative judicial region in which the county is located determines that the county sheriff is unable to perform the duties required by Subsection (f) of this section, the presiding judge may impose those duties on:

- (1) the district clerk; or
- (2) the prosecutor of each district court in the county.

(h) If a parole panel releases on parole a person who is confined in a jail in this state, a federal correctional institution, or a correctional institution in another state, the Texas Department of Criminal Justice shall request the sheriff who would otherwise be required to transfer the person to the department to forward to the department the information described by Subsections (a) and (c) of this section. The sheriff shall comply with the request of the department. The department shall determine whether the information forwarded by the sheriff under this subsection contains a thumbprint taken from the person in the manner provided by Article 38.33 of this code and, if not, the department shall obtain a thumbprint taken in the manner provided by that article and shall forward the thumbprint to the department for inclusion with the information sent by the sheriff.

(i) A county may deliver the documents required under Subsections (a) and (c) of this section to the Texas Department of Criminal Justice by electronic means. For purposes of this subsection, "electronic means" means the transmission of data between word processors, data processors, or similar automated information equipment over dedicated cables, commercial lines, or other similar methods of transmission.

(j) If after a county transfers a defendant or inmate to the Texas Department of Criminal Justice the charges on which the defendant or inmate was convicted and for which the defendant or inmate was transferred are dismissed, the county shall immediately

notify an officer designated by the department of the dismissal.

Sec. 9. A county that transfers a defendant to the Texas Department of Criminal Justice under this article may deliver to an officer designated by the department a certified copy of a final order of a state or federal court that dismisses as frivolous or malicious a lawsuit brought by the inmate while the inmate was confined in the county jail awaiting transfer to the department following conviction of a felony or revocation of community supervision, parole, or mandatory supervision. The county may deliver the copy to the department at the time of the transfer of the inmate or at any time after the transfer of the inmate.

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1973, 63rd Leg., p. 206, ch. 91, Sec. 2, eff. Aug. 27, 1973; Acts 1977, 65th Leg., p. 2018, ch. 806, Sec. 1, eff. Aug. 29, 1977.

Amended by Acts 1981, 67th Leg., p. 810, ch. 291, Sec. 117, eff. Sept. 1, 1981. Sec. 7 added by Acts 1983, 68th Leg., p. 148, ch. 40, Sec. 1, eff. April 26, 1983; Acts 1983, 68th Leg., p. 4668, ch. 810, Sec. 1, eff. Sept. 1, 1983; Sec. 8 amended by Acts 1985, 69th Leg., ch. 344, Sec. 3, eff. Jan. 1, 1986; Acts 1987, 70th Leg., ch. 1049, Sec. 53, eff. Sept. 1, 1987; Sec. 8(a) amended by Acts 1989, 71st Leg., ch. 785, Sec. 4.12, eff. Sept. 1, 1989; Sec. 8(h) added by Acts 1989, 71st Leg., ch. 33, Sec. 2, eff. April 26, 1989; Sec. 8(a) amended by Acts 1991, 72nd Leg., 2nd C.S., ch. 10, Sec. 11.05, eff. Aug. 29, 1991. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993; Sec. 8(a) to (c) amended by Acts 1995, 74th Leg., ch. 321, Sec. 3.001, eff. Sept. 1, 1995; Sec. 8(d) amended by Acts 1995, 74th Leg., ch. 321, Sec. 3.001, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 723, Sec. 1, eff. Sept. 1, 1995; Sec. 8(f), (h), (i) amended by Acts 1995, 74th Leg., ch. 321, Sec. 3.001, eff. Sept. 1, 1995; Sec. 8(a) amended by Acts 1999, 76th Leg., ch. 1188, Sec. 1.42, eff. Sept. 1, 1999; Sec. 8(c) amended by Acts 1999, 76th Leg., ch. 1477, Sec. 29, eff. Sept. 1, 1999; Sec. 9 added by Acts 1999, 76th Leg., ch. 655, Sec. 1, eff. June 18, 1999; Sec. 4 amended by Acts 2001, 77th Leg., ch. 214, Sec. 1, eff. May 22, 2001; Sec. 8(j) added by Acts 2001, 77th Leg., ch. 453, Sec. 1, eff. June 8, 2001; Sec. 8(a) amended by Acts 2003, 78th Leg., ch. 14, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 4.005, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. [909](#)), Sec. 4, eff. June 15, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.023, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. [1969](#)), Sec. 25.024, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 980 (H.B. [3671](#)), Sec. 1, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 282 (H.B. [904](#)), Sec. 1, eff. September 1, 2015.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.15, eff. January 1, 2017.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. [2299](#)), Sec. 2.16, eff. January 1, 2017.

Art. 42.10. SATISFACTION OF JUDGMENT AS IN MISDEMEANOR CONVICTIONS. When a person is convicted of a felony, and the punishment assessed is only a fine or a term in jail, or both, the judgment may be satisfied in the same manner as a conviction for a misdemeanor is by law satisfied.

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

Art. 42.111. DEFERRAL OF PROCEEDINGS IN CASES APPEALED TO COUNTY COURT. If a defendant convicted of a misdemeanor punishable by fine only appeals the conviction to a county court, on the trial in county court the defendant may enter a plea of guilty or nolo contendere to the offense. If the defendant enters a plea of guilty or nolo contendere, the court may defer further proceedings without entering an adjudication of guilt in the same manner as provided for the deferral of proceedings in justice court or municipal court under Article [45.051](#) of this code. This article does not apply to a misdemeanor case disposed of under Subchapter B, Chapter [543](#), Transportation Code, or a serious traffic violation as defined by Section [522.003](#), Transportation Code.

Added by Acts 1989, 71st Leg., ch. 399, Sec. 2, eff. June 14, 1989.
Amended by Acts 1991, 72nd Leg., ch. 775, Sec. 18, eff. Sept. 1,
1991; Acts 1999, 76th Leg., ch. 62, Sec. 3.03, eff. Sept. 1, 1999;
Acts 1999, 76th Leg., ch. 1545, Sec. 62, eff. Sept. 1, 1999.

Art. 42.122. [ADULT PROBATION OFFICERS OF THE 222ND JUDICIAL DISTRICT; SALARY AND ALLOWANCES]. The adult probation officer of the 222nd Judicial District receives a salary of not less than \$15,000 per annum. Also, the probation officer receives allowances, not to exceed the amount allowed by the federal government for traveling the most practical route to and from the place where the duties are discharged, for his necessary travel and hotel expenses. Upon the sworn statement of the officer, approved by the judge, the respective counties of the judicial district pay the expenses incurred for their regular or special term of court out of the general county fund. In lieu of travel allowances the commissioners court of each county, by agreement, may provide transportation under the same terms and conditions as provided for sheriffs.

Added by Acts 1985, 69th Leg., ch. 480, Sec. 18, eff. Sept. 1, 1985.

Art. 42.14. IN ABSENCE OF DEFENDANT. (a) In a misdemeanor case, the judgment and sentence may be rendered in the absence of the defendant.

(b) In a felony case, the judgment and sentence may be rendered in the absence of the defendant only if:

- (1) the defendant is confined in a penal institution;
- (2) the defendant is not charged with a felony

offense:

(A) that is listed in Article [42A.054\(a\)](#); or

(B) for which it is alleged that:

(i) a deadly weapon was used or exhibited during the commission of the offense or during immediate flight from the commission of the offense; and

(ii) the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited;

(3) the defendant in writing before the appropriate court having jurisdiction in the county in which the penal institution is located:

(A) waives the right to be present at the rendering of the judgment and sentence or to have counsel present;

(B) affirms that the defendant does not have anything to say as to why the sentence should not be pronounced and that there is no reason to prevent the sentence under Article 42.07;

(C) states that the defendant has entered into a written plea agreement with the attorney representing the state in the prosecution of the case; and

(D) requests the court to pronounce sentence in the case in accordance with the plea agreement;

(4) the defendant and the attorney representing the state in the prosecution of the case have entered into a written plea agreement that is made a part of the record in the case; and

(5) sentence is pronounced in accordance with the plea agreement.

(c) A judgment and sentence may be rendered under this article in the absence of the defendant only after the defendant is notified by the court of original jurisdiction of the right to counsel and the defendant requests counsel or waives the right to counsel in accordance with Article 1.051.

(d) In this article, "deadly weapon" and "penal institution" have the meanings assigned by Section 1.07, Penal Code.

(e) If a defendant enters a plea of guilty or nolo contendere under Article 27.19, the attorney representing the state may request at the time the plea is entered that the defendant submit a fingerprint of the defendant suitable for attachment to the judgment. On request for a fingerprint under this subsection, the county in which the defendant is confined shall obtain a fingerprint of the defendant and use first-class mail or other means acceptable to the attorney representing the state and the county to forward the fingerprint to the court accepting the plea.

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

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 291 (H.B. 107), Sec. 2, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.17, eff. January 1, 2017.

Art. 42.141. BATTERING INTERVENTION AND PREVENTION PROGRAM

Sec. 1. DEFINITIONS. In this article:

(1) "Batterer" means a person who commits repeated acts of violence or who repeatedly threatens violence against another who is:

(A) related to the actor by affinity or consanguinity, as determined under Chapter 573, Government Code;

(B) is a former spouse of the actor; or

(C) resides or has resided in the same household with the actor.

(2) "Division" means the community justice assistance division of the Texas Department of Criminal Justice.

(3) "Family" has the meaning assigned by Section 71.003, Family Code.

(4) "Family violence" has the meaning assigned by Section 71.004, Family Code.

(5) "Shelter center" has the meaning assigned by Section 51.002, Human Resources Code.

(6) "Household" has the meaning assigned by Section 71.005, Family Code.

(7) "Program" means a battering intervention and prevention program that:

(A) meets:

(i) the guidelines adopted by the community justice assistance division of the Texas Department of Criminal Justice with the assistance of the statewide nonprofit organization described by Section 3(1); and

(ii) any other eligibility requirements adopted by the Texas Department of Criminal Justice; and

(B) provides, on a local basis to batterers referred by the courts for intervention, educational services and intervention designed to help the batterers stop their abusive

behavior.

(8) "Project" means the statewide activities for the funding of battering intervention and prevention programs, the related community educational campaign, and education and research regarding such programs.

(9) "Responsive law enforcement climate" means an area where, in cases of family violence:

(A) the local law enforcement agency has a policy or record of arresting batterers; and

(B) the local criminal justice system:

(i) cooperates with the victim in filing protective orders; and

(ii) takes appropriate action against a person who violates protective orders.

Sec. 2. ESTABLISHMENT. The battering intervention and prevention program is established in the division.

Sec. 3. DUTIES OF THE DIVISION. The division shall:

(1) contract with a nonprofit organization that for the five-year period before the date on which a contract is to be signed has been involved in providing to shelter centers, law enforcement agencies, and the legal community statewide advocacy and technical assistance relating to family violence, with the contract requiring the nonprofit organization to perform the duties described in Section (4) of this article;

(2) seek the input of the statewide nonprofit organization described in Subdivision (1) in the development of standards for selection of programs for inclusion in the project and the review of proposals submitted by programs;

(3) issue requests for proposals for the programs and an educational campaign not later than January 1, 1990;

(4) award contracts for programs that are operated by nonprofit organizations and that take into consideration:

(A) a balanced geographical distribution of urban, rural, and suburban models; and

(B) the presence of a responsive law enforcement climate in the community;

(5) develop and monitor the project in cooperation

with the nonprofit organization described by Subdivision (1);

(6) monitor the development of a community educational campaign in cooperation with the nonprofit organization described by Subdivision (1);

(7) assist the nonprofit organization described by Subdivision (1) in designing program evaluations and research activities;

(8) facilitate training of probation officers and other criminal justice professionals by the nonprofit organization described by Subdivision (1) and by programs;

(9) seek the assistance of the nonprofit organization described by Subdivision (1) in developing program guidelines and in accrediting programs and providers providing battering intervention and prevention services as conforming to those guidelines; and

(10) before adopting program guidelines under Section 4A:

(A) notify the licensing authorities described by Chapters 152, 501, 502, 503, and 505, Occupations Code, that the division is considering adopting program guidelines; and

(B) invite the licensing authorities to comment on the program guidelines.

Sec. 4. DUTIES OF THE NONPROFIT ORGANIZATION. The nonprofit organization with which the division contracts under Section 3(1) shall:

(1) assist the division in developing and issuing requests for proposals for the programs and the educational campaign;

(2) assist the division in reviewing the submitted proposals and making recommendations for proposals to be selected for funding;

(3) develop and monitor the project in cooperation with the division;

(4) provide technical assistance to programs to:

(A) develop appropriate services for batterers;

(B) train staff;

(C) improve coordination with shelter centers,

the criminal justice system, the judiciary, law enforcement agencies, prosecutors, and other appropriate officials and support services;

(D) implement the community educational campaign; and

(E) participate in project administered program evaluation and research activities;

(5) provide technical assistance to the division to:

(A) develop and implement standards for selection of programs for inclusion in the project; and

(B) develop standards for selection of the community educational campaign described in Section 6 of this article;

(6) submit an annual written report to the division and to the legislature with recommendations for continuation, elimination, or changes in the project;

(7) evaluate the programs and the community educational campaign, including an analysis of the effectiveness of the project and the level of public awareness relating to family violence; and

(8) assist the division in developing program guidelines and in accrediting programs and providers providing battering intervention and prevention services as conforming to those guidelines.

Sec. 4A. ADOPTION OF PROGRAM GUIDELINES; ACCREDITATION PROCESS. With the assistance of the statewide nonprofit organization described by Section 3(1) and after notifying the licensing authorities described by Section 3(10), the division shall adopt guidelines for programs and shall accredit programs and providers providing battering intervention and prevention services as conforming to those guidelines. The division shall collect from each program or provider that applies for accreditation under this section a one-time application fee in an amount set by the Texas Department of Criminal Justice.

Sec. 5. PROGRAMS. (a) A program proposal must:

(1) describe the counseling or treatment the program will offer;

(2) include letters from a local law enforcement agency or agencies, courts, probation officers, and other community resources describing the community's commitment to improve the criminal justice system's response to victims and batterers and to cooperate with and interact in the programs' activities;

(3) include a letter from the local shelter center describing the support services available to victims of family violence in the community and the shelter's commitment to cooperate and work with the program; and

(4) describe the public education and local community outreach activities relating to family violence currently available in the community and a statement of commitment to participate on the local level in the public educational campaign described in Section 6 of this article.

(b) A program must:

(1) be situated in a county in which a shelter center is located;

(2) offer counseling or treatment in which the primary approach is direct intervention with the batterer, on an individual or group basis, but that does not require the victim of the family violence to participate in the counseling or treatment;

(3) offer training to law enforcement prosecutors, judges, probation officers, and others on the dynamics of family violence, treatment options, and program activities; and

(4) have a system for receiving referrals from the courts and for reporting to the court regarding batterers' compliance with the treatment program.

(c) This section does not preclude a program from serving a batterer other than one who was ordered by a court to participate in the program established under this subchapter.

Sec. 6. COMMUNITY EDUCATIONAL CAMPAIGN. (a) The division, with assistance from the nonprofit organization, shall select the community educational campaign relating to family violence after the commission has selected the programs. The campaign is to be implemented in the areas covered by the programs.

(b) The campaign shall use a variety of media, including newspapers, radio, television, and billboards, and shall focus on:

(1) the criminality of acts of violence toward family members;

(2) the consequences of family violence crimes to the batterer; and

(3) eradicating public misconceptions of family violence.

Sec. 7. USE OF LEGISLATIVE APPROPRIATION. Of a legislative appropriation for the project established under this article:

(1) not more than six percent may be used by the division for management and administration of the project;

(2) not more than 14 percent may be applied to the contract between the division and the nonprofit organization; and

(3) not more than three percent may be applied to the contract for the community educational campaign.

Sec. 8. CONTRACT DATE. The contract required under Section 3(a) of this article shall be signed not later than November 1, 1989.

Added by Acts 1989, 71st Leg., ch. 785, Sec. 3.05, eff. Sept. 1, 1989. Sec. 1(1) amended by Acts 1991, 72nd Leg., ch. 561, Sec. 11, eff. Aug. 26, 1991; Sec. 1(1)(A) amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(27), eff. Sept. 1, 1995; Sec. 1(3), (4), (6) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(i), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 113 (S.B. 44), Sec. 2, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 113 (S.B. 44), Sec. 3, eff. September 1, 2007.

Art. 42.15. FINES AND COSTS. (a) When the defendant is fined, the judgment shall be that the defendant pay the amount of the fine and all costs to the state.

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 977
(H.B. 351), Sec. 4

(a-1) Notwithstanding any other provision of this article, during or immediately after imposing a sentence in a case in which

the defendant entered a plea in open court as provided by Article 27.13, 27.14(a), or 27.16(a), a court shall inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. If the court determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, the court shall determine whether the fine and costs should be:

(1) required to be paid at some later date or in a specified portion at designated intervals;

(2) discharged by performing community service under, as applicable, Article 43.09(f), Article 45.049, Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, or Article 45.0492, as added by Chapter 777 (H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;

(3) waived in full or in part under Article 43.091 or 45.0491; or

(4) satisfied through any combination of methods under Subdivisions (1)-(3).

Text of subsection as added by Acts 2017, 85th Leg., R.S., Ch. 1127
(S.B. 1913), Sec. 4

(a-1) Notwithstanding any other provision of this article, during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court as provided by Article 27.13, 27.14(a), or 27.16(a), a court shall inquire whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs. If the court determines that the defendant does not have sufficient resources or income to immediately pay all or part of the fine and costs, the court shall determine whether the fine and costs should be:

(1) subject to Subsection (c), required to be paid at some later date or in a specified portion at designated intervals;

(2) discharged by performing community service under, as applicable, Article 43.09(f), Article 45.049, Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, or Article 45.0492, as added by Chapter 777

(H.B. 1964), Acts of the 82nd Legislature, Regular Session, 2011;

(3) waived in full or in part under Article 43.091 or 45.0491; or

(4) satisfied through any combination of methods under Subdivisions (1)-(3).

(b) Subject to Subsections (c) and (d) and Article 43.091, when imposing a fine and costs, a court may direct a defendant:

(1) to pay the entire fine and costs when sentence is pronounced;

(2) to pay the entire fine and costs at some later date; or

(3) to pay a specified portion of the fine and costs at designated intervals.

(c) When imposing a fine and costs in a misdemeanor case, if the court determines that the defendant is unable to immediately pay the fine and costs, the court shall allow the defendant to pay the fine and costs in specified portions at designated intervals.

(d) A judge may allow a defendant who is a child, as defined by Article 45.058(h), to elect at the time of conviction, as defined by Section 133.101, Local Government Code, to discharge the fine and costs by:

(1) performing community service or receiving tutoring under Article 45.0492, as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011; or

(2) paying the fine and costs in a manner described by Subsection (b).

(e) The election under Subsection (d) must be made in writing, signed by the defendant, and, if present, signed by the defendant's parent, guardian, or managing conservator. The court shall maintain the written election as a record of the court and provide a copy to the defendant.

(f) The requirement under Article 45.0492(a), as added by Chapter 227 (H.B. 350), Acts of the 82nd Legislature, Regular Session, 2011, that an offense occur in a building or on the grounds of the primary or secondary school at which the defendant was enrolled at the time of the offense does not apply to the performance of community service or the receipt of tutoring to

discharge a fine or costs under Subsection (d)(1).

Acts 1965, 59th Leg., vol. 2, p. 317, ch. 722. Amended by Acts 1971, 62nd Leg., p. 2990, ch. 987, Sec. 1, eff. June 15, 1971.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 464 (H.B. 27), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 464 (H.B. 27), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1320 (S.B. 395), Sec. 1, eff. September 1, 2013.

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

Acts 2017, 85th Leg., R.S., Ch. 977 (H.B. 351), Sec. 4, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 1127 (S.B. 1913), Sec. 4, eff. September 1, 2017.

Art. 42.151. FEES FOR ABUSED CHILDREN'S COUNSELING. If a court orders a defendant to pay a fee under Article 37.072 of this code, the court shall assess the fee against the defendant in the same manner as other costs of prosecution are assessed against a defendant. The court may direct a defendant:

- (1) to pay the entire fee when sentence is pronounced;
- (2) to pay the entire fee at some later date; or
- (3) to pay a specified portion of the fee at designated intervals.

Added by Acts 1989, 71st Leg., ch. 360, Sec. 3, eff. Sept. 1, 1989.

Art. 42.152. REPAYMENT OF REWARD. (a) If a judge orders a defendant to repay a reward or part of a reward under Article 37.073 of this code, the court shall assess this cost against the defendant in the same manner as other costs of prosecution are assessed against a defendant. The court may order the defendant to:

- (1) pay the entire amount required when sentence is pronounced;
- (2) pay the entire amount required at a later date specified by the court; or

(3) pay specified portions of the required amount at designated intervals.

(b) After receiving a payment from a person ordered to make the payment under this article, the clerk of the court or fee officer shall:

(1) make a record of the payment;

(2) deduct a one-time \$7 processing fee from the reward repayment;

(3) forward the payment to the designated crime stoppers organization; and

(4) make a record of the forwarding of the payment.

Added by Acts 1989, 71st Leg., ch. 611, Sec. 3, eff. Sept. 1, 1989. Renumbered from art. 42.151 by Acts 1991, 72nd Leg., ch. 16, Sec. 19.01(6), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 700, Sec. 12, eff. Sept. 1, 1997.

Art. 42.16. ON OTHER JUDGMENT. If the punishment is any other than a fine, the judgment shall specify it, and order it enforced by the proper process. It shall also adjudge the costs against the defendant, and order the collection thereof as in other cases.

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

Art. 42.17. TRANSFER UNDER TREATY. When a treaty is in effect between the United States and a foreign country providing for the transfer of convicted offenders who are citizens or nationals of foreign countries to the foreign countries of which they are citizens or nationals, the governor is authorized, subject to the terms of such treaty, to act on behalf of the State of Texas and to consent to the transfer of such convicted offenders under the provisions of Article IV, Section 11 of the Constitution of the State of Texas.

Added by Acts 1977, 65th Leg., p. 1266, ch. 489, Sec. 1, eff. June 15, 1977.

Art. 42.19. INTERSTATE CORRECTIONS COMPACT.

Article I. Purpose and Policy

The party states, desiring by common action to fully utilize

and improve their institutional facilities and provide adequate programs for the confinement, treatment, and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment, and rehabilitation of offenders with the most economical use of human and material resources.

Article II. Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally defective, in which inmates as defined in (d) above may lawfully be confined.

Article III. Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental

expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs, or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities, and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

Article IV. Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, such official may direct that the confinement be within an institution within the territory of such other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on

probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state. However, the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state who are in institutions pursuant to this compact including a conduct record of each inmate and shall certify such record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of the inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which the inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearing as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. The record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this paragraph (f), the officials of the receiving state shall act solely as agents of the sending state and no final determination

shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate and the sending and receiving states shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to this compact shall have any rights and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

Article V. Act Not Reviewable in Receiving State: Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, or detention for such offense. The duly accredited officer of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution escaped from is situated. In the case of an escape to a

jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

Article VI. Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant thereto. Any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provision. However, if such program or activity is not part of the customary correctional regimen, the express consent of the appropriate official of the sending state shall be required therefor.

Article VII. Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of such states upon similar action by such state.

Article VIII. Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the compact and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in the statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawal state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

Article IX. Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair an agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation, or treatment of inmates, nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

Article X. Construction and Severability

(a) The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

(b) Powers. The director of the Texas Department of Criminal Justice is authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular. Added by Acts 1985, 69th Leg., ch. 24, Sec. 1, eff. Jan. 1, 1986. Renumbered from art. 42.18 by Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(9), eff. Sept. 1, 1987.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 25.031, eff. September 1, 2009.

Art. 42.20. IMMUNITIES. (a) An individual listed in Subsection (c) of this article and the governmental entity that the individual serves as an officer or employee are not liable for damages arising from an act or failure to act by the individual or governmental entity in connection with a community service program or work program established under this chapter or in connection with an inmate, offender, or releasee programmatic or nonprogrammatic activity, including work, educational, and

treatment activities, if the act or failure to act:

(1) was performed pursuant to a court order or was otherwise performed in an official capacity; and

(2) was not performed with conscious indifference for the safety of others.

(b) Chapter 101, Civil Practice and Remedies Code, does not apply to a claim based on an act or a failure to act of an individual listed in Subsection (c) of this article or a governmental entity the officer serves as an officer or employee if the act or failure to act is in connection with a program described by Subsection (a) of this article.

(c) This article applies to:

(1) a director or employee of a community supervision and corrections department or a community corrections facility;

(2) a sheriff or employee of a sheriff's department;

(3) a county judge, county attorney, county commissioner, or county employee;

(4) a district judge, district attorney, or criminal district attorney;

(5) an officer or employee of a state agency; or

(6) an officer or employee of a political subdivision other than a county.

Added by Acts 1993, 73rd Leg., ch. 900, Sec. 5.03, eff. Sept. 1, 1993. Subsec. (a) amended by Acts 1995, 74th Leg., ch. 76, Sec. 3.13, eff. Sept. 1, 1995; Subsec. (c) amended by Acts 2003, 78th Leg., ch. 406, Sec. 1, eff. Sept. 1, 2003.

Art. 42.21. NOTICE OF RELEASE OF FAMILY VIOLENCE OFFENDERS.

(a) Before releasing a person convicted of a family violence offense, the entity holding the person shall make a reasonable attempt to give personal notice of the imminent release to the victim of the offense or to another person designated by the victim to receive the notice. An attempt by an entity to give notice to the victim or person designated by the victim at the victim's or person's last known telephone number or address, as shown on the records of the entity, constitutes a reasonable attempt to give notice under this subsection.

(b) An entity or an employee of an entity is not liable for damages arising from complying or failing to comply with Subsection (a) of this article.

(c) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

Added by Acts 1995, 74th Leg., ch. 661, Sec. 2, eff. Aug. 28, 1995.
Subsec. (c) amended by Acts 2003, 78th Leg., ch. 1276, Sec. 7.002(j), eff. Sept. 1, 2003.

Art. 42.22. RESTITUTION LIENS

Sec. 1. DEFINITIONS. In this article:

(1) "Department" means the Texas Department of Motor Vehicles.

(2) "Motor vehicle" has the meaning assigned by Chapter 501, Transportation Code.

(3) "State" means the State of Texas and all political subdivisions thereof.

(4) "Victim" means:

(A) a "close relative of a deceased victim," "guardian of a victim," or "victim," as those terms are defined by Article 56.01 of this code; or

(B) an individual who suffers damages as a result of another committing an offense under Section 38.04, Penal Code, in which the defendant used a motor vehicle while the defendant was in flight.

(5) "Personal property" means any property other than real property including all tangible and intangible types of property and including but not limited to copyrights, book rights, movie rights, patents, and trademarks acquired by the defendant prior to, during, and after conviction.

Sec. 2. LIEN ESTABLISHED. (a) The victim of a criminal offense has a restitution lien to secure the amount of restitution to which the victim is entitled under the order of a court in a criminal case.

(b) The state also has a restitution lien to secure the:

(1) amount of fines or costs entered against a defendant in the judgment in a felony criminal case;

(2) amount of reimbursement for costs of:

(A) confinement ordered under Article 42.038; or
(B) notice provided under Article 62.056 or 62.201; and

(3) amount of damages incurred by the state as a result of the commission of an offense under Section 38.04, Penal Code, in which the defendant used a motor vehicle while the defendant was in flight.

Sec. 3. PERFECTION. (a) Except as provided by this section, a restitution lien attaches and is perfected when an affidavit to perfect the lien is filed in accordance with this article.

(b) If a lien established under this article is attached to a motor vehicle, the lien must be perfected in the manner provided by Chapter 501, Transportation Code, and the court that entered the order of restitution giving rise to the lien shall include in the order a requirement that the defendant surrender to the court evidence of current legal ownership of the motor vehicle and the title, if applicable, against which the lien attaches. A lien against a motor vehicle as provided by this article is not perfected until the defendant's title to the vehicle has been surrendered to the court and the department has issued a subsequent title that discloses on its face the fact that the vehicle is subject to a restitution lien established as provided by this article.

Sec. 4. JUDGMENT REQUIRED. An affidavit to perfect a restitution lien may not be filed under this article until a court has ordered restitution or entered a judgment requiring the defendant to pay a fine or costs.

Sec. 5. PERSONS WHO MAY FILE. The following persons may file an affidavit to perfect a restitution lien:

(1) the attorney representing the state in a criminal case in which a victim is determined by the court to be entitled to restitution or in which a defendant is ordered to pay fines or costs; or

(2) a victim in a criminal case determined by the court to be entitled to restitution.

Sec. 6. AFFIDAVIT. An affidavit to perfect a restitution lien must be signed by the attorney representing the state or a

magistrate and must contain:

(1) the name and date of birth of the defendant whose property or other interests are subject to the lien;

(2) the residence or principal place of business of the person named in the lien, if known;

(3) the criminal proceeding giving rise to the lien, including the name of the court, the name of the case, and the court's file number for the case;

(4) the name and address of the attorney representing the state and the name of the person entitled to restitution;

(5) a statement that the notice is being filed under this article;

(6) the amount of restitution and the amount of fines and costs the defendant has been ordered to pay by the court;

(7) a statement that the amount of restitution owed at any one time may be less than the original balance and that the outstanding balance is reflected in the records of the clerk of the court hearing the criminal proceeding giving rise to the lien; and

(8) the vehicle description and vehicle identification number.

Sec. 7. FILING. (a) An affidavit to perfect a restitution lien may be filed with:

(1) the secretary of state;

(2) the department in the manner provided by Chapter 501, Transportation Code; or

(3) the county clerk of the county in which:

(A) the crime was committed;

(B) the defendant resides; or

(C) the property is located.

(b) The uniform fee for filing and indexing and for stamping a copy furnished by the state or victim to show the date and place of filing is \$5.

(c) The secretary of state shall deposit the filing fee in the state treasury to the credit of the statutory filing fund solely to defray the costs of administration of this section. The department shall deposit the filing fee in the state treasury to the credit of the state highway fund to be used solely to defray the costs of

administering this section.

(d) The county clerk shall immediately record the restitution lien in the judgment records of the county. The clerk shall note in the records the date and hour the lien is received.

(e) The secretary of state shall immediately file the restitution lien in the security interest and financing statement records of the secretary of state. The secretary of state shall note in the records the date and hour the lien is received.

(f) The department shall immediately file the restitution lien in the motor vehicle records of the department. The department shall note in the records the date and hour the lien is received.

(g) When a restitution lien is filed, the county clerk or secretary of state shall enter the restitution lien in an alphabetical index to the records in which the lien is filed showing:

- (1) the name of the person entitled to restitution;
- (2) the name of the defendant obligated to pay restitution, fines, or costs;
- (3) the amount of the lien; and
- (4) the name of the court that ordered restitution.

(h) A person who files an affidavit to perfect a restitution lien under this article shall notify in writing the clerk of the court entering the judgment creating the lien of all officers or entities with which the affidavit was filed.

Sec. 8. SUBJECT PROPERTY. A restitution lien extends to:

(1) any interest of the defendant in real property whether then owned or after-acquired located in a county in which the lien is perfected by the filing of an affidavit with the county clerk;

(2) any interest of the defendant in tangible or intangible personal property whether then owned or after-acquired other than a motor vehicle if the lien is perfected by the filing of the affidavit with the secretary of state; or

(3) any interest of the defendant in a motor vehicle whether then owned or after-acquired if the lien is perfected by the filing of the affidavit with the department.

Sec. 9. PRIORITY. The perfection of a restitution lien under this article is notice of the claim to all persons dealing

with the defendant or the property identified in the affidavit perfecting the lien. Without regard to whether perfected before or after the perfection of a restitution lien filed and perfected under this article, a perfected real estate mortgage lien, a vendor's lien, a purchase money security interest, a chattel paper security interest, a lien on a motor vehicle perfected as provided by Chapter 501, Transportation Code, or a worker's lien perfected in the manner provided by law is superior and prior to a restitution lien filed and perfected under this article. Except as provided by this article, a perfected lien in favor of a victim is superior and prior to a lien perfected by the state under this article, and the perfected lien in favor of the state is superior and prior to the claim or interest of any other person, other than:

(1) a person who acquires a valid lien or security interest perfected before the perfection of the restitution lien;

(2) a bona fide purchaser who acquires an interest in the property, if personal property, before the filing of the restitution lien, to the extent that the purchaser gives value; or

(3) a bona fide purchaser for value who acquires and files for record an interest in the property, if real property, before the perfection of the restitution lien.

Sec. 10. PAYMENT. The clerk receiving a payment from a defendant ordered to pay restitution shall make payments to the person having an interest in the restitution lien on a schedule of not less than quarterly payments as determined by the clerk or agency.

Sec. 11. FORECLOSURE. If a defendant fails to timely make a payment required by the order of the court entering the judgment creating the restitution lien, the person having an interest in the lien may file suit in a court of competent jurisdiction to foreclose the lien. If the defendant cures the default on or before the 20th day after the date the suit is filed and pays the person who files the suit costs of court and reasonable attorney's fees, the court may dismiss the suit without prejudice to the person. The person may refile the suit against the defendant if the defendant subsequently defaults.

Sec. 12. EXPIRATION; RECORDS. (a) A restitution lien

expires on the 10th anniversary of the date the lien was filed or on the date the defendant satisfies the judgment creating the lien, whichever occurs first. The person having an interest in the lien may refile the lien before the date the lien expires. A lien that is refiled expires on the 10th anniversary of the date the lien was refiled or the date the defendant satisfies the judgment creating the lien, whichever occurs first.

(b) Failure to execute or foreclose the restitution lien does not cause dormancy of the lien.

(c) The clerk of the court entering the judgment creating the restitution lien shall maintain a record of the outstanding balance of restitution, fines, or costs owed. If the defendant satisfies the judgment, the clerk shall immediately execute and file for record a release of the restitution lien with all officers or entities with which the affidavit perfecting the lien was filed, as indicated by the notice received by the clerk under Section 7(h) of this article, unless a release was executed and filed by the person who filed the affidavit to perfect the lien.

(d) A partial release of a lien as to specific property may be executed by the attorney representing the state or a magistrate who signs an affidavit described by Section 6 of this article on payment of a sum determined to represent the defendant's interest in any property to which the lien may attach.

Added by Acts 1995, 74th Leg., ch. 997, Sec. 1, eff. Sept. 1, 1996. Amended by Acts 1997, 75th Leg., ch. 1118, Sec. 1, eff. Sept. 1, 1997. Renumbered from Vernon's Ann.C.C.P. art. 42.21 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(12), eff. Sept. 1, 1997. Sec. 2(b) amended by Acts 1999, 76th Leg., ch. 295, Sec. 2, eff. Sept. 1, 1999; Sec. 1(4) amended by Acts 2001, 77th Leg., ch. 1334, Sec. 1, eff. Sept. 1, 2001; Sec. 2(b) amended by Acts 2001, 77th Leg., ch. 1334, Sec. 2, eff. Sept. 1, 2001; Sec. 2(b) amended by Acts 2003, 78th Leg., ch. 1300, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1008 (H.B. [867](#)), Sec. 2.02, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 933 (H.B. [3097](#)), Sec. 3B.01, eff. September 1, 2009.

Art. 42.23. NOTIFICATION OF COURT OF FAMILY VIOLENCE CONVICTION. (a) In this article, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) If the attorney representing the state in a criminal case involving family violence learns that the defendant is subject to the jurisdiction of another court relating to an order that provides for the appointment of a conservator or that sets the terms and conditions of conservatorship or for possession of or access to a child, the attorney representing the state shall notify the court in which the defendant is being tried of the existence of the order and the identity of the court of continuing jurisdiction.

(c) On the conviction or entry of an order deferring adjudication of a defendant for an offense involving family violence, the convicting court or the court entering the order shall notify the court of continuing jurisdiction of the conviction or deferred adjudication.

Added by Acts 2001, 77th Leg., ch. 1289, Sec. 11, eff. Sept. 1, 2001.

Art. 42.24. PROHIBITING CONTACT WITH VICTIM. If a defendant's sentence includes a term of confinement or imprisonment, the convicting court may, as part of the sentence, prohibit the defendant from contacting, during the term of the defendant's confinement or imprisonment, the victim of the offense of which the defendant is convicted or a member of the victim's family.

Added by Acts 2011, 82nd Leg., R.S., Ch. 491 (H.B. 1028), Sec. 1, eff. September 1, 2011.