PENAL CODE

CHAPTER 37. PERJURY AND OTHER FALSIFICATION

§ 37.01. DEFINITIONS. In this chapter:

(1) "Court record" means a decree, judgment, order, subpoena, warrant, minutes, or other document issued by a court of:

(A) this state;

(B) another state;

(C) the United States;

(D) a foreign country recognized by an act of congress or a treaty or other international convention to which the United States is a party;

(E) an Indian tribe recognized by the United States; or

(F) any other jurisdiction, territory, or protectorate entitled to full faith and credit in this state under the United States Constitution.

(2) "Governmental record" means:

(A) anything belonging to, received by, or kept by government for information, including a court record;

(B) anything required by law to be kept by others for information of government;

(C) a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States;

(D) a standard proof of motor vehicle liability insurance form described by Section 601.081, Transportation Code, a certificate of an insurance company described by Section 601.083 of that code, a document purporting to be such a form or certificate that is not issued by an insurer authorized to write motor vehicle liability insurance in this state, an electronic submission in a form described by Section 502.153(i), Transportation Code, or an

evidence of financial responsibility described by Section 601.053 of that code;

(E) an official ballot or other election record; or

(F) the written documentation a mobile food unit is required to obtain under Section 437.0074, Health and Safety Code.

(3) "Statement" means any representation of fact.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1991, 72nd Leg., ch. 113, § 3, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 189, § 5, eff. May 21, 1997; Acts 1997, 75th Leg., ch. 823, § 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 659, § 1, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 393, § 21, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1276, § 2, eff. September 1, 2007.

§ 37.02. PERJURY. (a) A person commits an offense if, with intent to deceive and with knowledge of the statement's meaning:

(1) he makes a false statement under oath or swears to the truth of a false statement previously made and the statement is required or authorized by law to be made under oath; or

(2) he makes a false unsworn declaration under Chapter 132, Civil Practice and Remedies Code.

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

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.03. AGGRAVATED PERJURY. (a) A person commits an offense if he commits perjury as defined in Section 37.02, and the false statement:

(1) is made during or in connection with an official proceeding; and

(2) is material.

(b) An offense under this section is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.04. MATERIALITY. (a) A statement is material, regardless of the admissibility of the statement under the rules of evidence, if it could have affected the course or outcome of the official proceeding.

(b) It is no defense to prosecution under Section 37.03 (Aggravated Perjury) that the declarant mistakenly believed the statement to be immaterial.

(c) Whether a statement is material in a given factual situation is a question of law.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.05. RETRACTION. It is a defense to prosecution under Section 37.03 (Aggravated Perjury) that the actor retracted his false statement:

(1) before completion of the testimony at the official proceeding; and

(2) before it became manifest that the falsity of the statement would be exposed.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.06. INCONSISTENT STATEMENTS. An information or indictment for perjury under Section 37.02 or aggravated perjury under Section 37.03 that alleges that the declarant has made statements under oath, both of which cannot be true, need not allege which statement is false. At the trial the prosecution need not

prove which statement is false.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.07. IRREGULARITIES NO DEFENSE. (a) It is no defense to prosecution under Section 37.02 (Perjury) or 37.03 (Aggravated Perjury) that the oath was administered or taken in an irregular manner, or that there was some irregularity in the appointment or qualification of the person who administered the oath.

(b) It is no defense to prosecution under Section 37.02 (Perjury) or 37.03 (Aggravated Perjury) that a document was not sworn to if the document contains a recital that it was made under oath, the declarant was aware of the recital when he signed the document, and the document contains the signed jurat of a public servant authorized to administer oaths.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

§ 37.08. FALSE REPORT TO PEACE OFFICER OR LAW ENFORCEMENT EMPLOYEE. (a) A person commits an offense if, with intent to deceive, he knowingly makes a false statement that is material to a criminal investigation and makes the statement to:

(1) a peace officer conducting the investigation; or

(2) any employee of a law enforcement agency that is authorized by the agency to conduct the investigation and that the actor knows is conducting the investigation.

(b) In this section, "law enforcement agency" has the meaning assigned by Article 59.01, Code of Criminal Procedure.

(c) An offense under this section is a Class B misdemeanor.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 925, § 1, eff. Sept. 1, 1997.

§ 37.081. FALSE REPORT REGARDING MISSING CHILD OR

MISSING PERSON. (a) A person commits an offense if, with intent to deceive, the person knowingly:

(1) files a false report of a missing child or missing person with a law enforcement officer or agency; or

(2) makes a false statement to a law enforcement officer or other employee of a law enforcement agency relating to a missing child or missing person.

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

Added by Acts 1999, 76th Leg., ch. 200, § 3, eff. Sept. 1, 1999.

§ 37.09. TAMPERING WITH OR FABRICATING PHYSICAL EVIDENCE. (a) A person commits an offense if, knowing that an investigation or official proceeding is pending or in progress, he:

(1) alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in the investigation or official proceeding; or

(2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent to affect the course or outcome of the investigation or official proceeding.

(b) This section shall not apply if the record, document, or thing concealed is privileged or is the work product of the parties to the investigation or official proceeding.

(c) An offense under Subsection (a) or Subsection (d)(1) is a felony of the third degree, unless the thing altered, destroyed, or concealed is a human corpse, in which case the offense is a felony of the second degree. An offense under Subsection (d)(2) is a Class A misdemeanor.

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

(1) knowing that an offense has been committed, alters, destroys, or conceals any record, document, or thing with intent to impair its verity, legibility, or availability as evidence in any subsequent investigation of or official proceeding related to the offense; or

(2) observes a human corpse under circumstances in which a reasonable person would believe that an offense had been committed, knows or reasonably should know that a law enforcement agency is not aware of the existence of or location of the corpse, and fails to report the existence of and location of the corpse to a law enforcement agency.

(e) In this section, "human corpse" has the meaning assigned by Section 42.08.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1991, 72nd Leg., ch. 565, § 4, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 1284, § 1, eff. Sept. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 287, § 1, eff. September 1, 2007.

§ 37.10. TAMPERING WITH GOVERNMENTAL RECORD. (a) A person commits an offense if he:

(1) knowingly makes a false entry in, or false alteration of, a governmental record;

(2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;

(3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;

(4) possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;

(5) makes, presents, or uses a governmental record with knowledge of its falsity; or

(6) possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

(b) It is an exception to the application of Subsection (a)(3) that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.

(c)(1) Except as provided by Subdivisions (2), (3), and (4) and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.

(2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was a public school record, report, or

assessment instrument required under Chapter 39, Education Code, or was a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree.

(3) An offense under this section is a Class C misdemeanor if it is shown on the trial of the offense that the governmental record is a governmental record that is required for enrollment of a student in a school district and was used by the actor to establish the residency of the student.

(4) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the governmental record is a written appraisal filed with an appraisal review board under Section 41.43(a-1), Tax Code, that was performed by a person who had a contingency interest in the outcome of the appraisal review board hearing.

(d) An offense under this section, if it is shown on the trial of the offense that the governmental record is described by Section 37.01(2)(D), is:

(1) a Class B misdemeanor if the offense is committed under Subsection (a)(2) or Subsection (a)(5) and the defendant is convicted of presenting or using the record;

(2) a felony of the third degree if the offense is committed under:

(A) Subsection (a)(1), (3), (4), or (6); or

(B) Subsection (a)(2) or (5) and the defendant is convicted of making the record; and

(3) a felony of the second degree, notwithstanding Subdivisions (1) and (2), if the actor's intent in committing the offense was to defraud or harm another.

(e) It is an affirmative defense to prosecution for possession under Subsection (a)(6) that the possession occurred in the actual discharge of official duties as a public servant.

(f) It is a defense to prosecution under Subsection (a)(1), (a)(2), or (a)(5) that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

(g) A person is presumed to intend to defraud or harm another if the person acts with respect to two or more of the same type of governmental records or blank governmental record forms and if each governmental record or blank governmental record form is a license, certificate, permit, seal, title, or similar document

issued by government.

(h) If conduct that constitutes an offense under this section also constitutes an offense under Section 32.48 or 37.13, the actor may be prosecuted under any of those sections.

(i) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1989, 71st Leg., ch. 1248, § 66, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 113, § 4, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 565, § 5, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 189, § 6, eff. May 21, 1997; Acts 1997, 75th Leg., ch. 823, § 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 659, § 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 718, § 1, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 771, § 3, eff. June 13, 2001; Acts 2003, 78th Leg., ch. 198, § 2.139, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 257, § 16, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1364, § 1, eff. June 18, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1085, § 2, eff. September 1, 2007.

§ 37.101. FRAUDULENT FILING OF FINANCING STATEMENT. (a) A person commits an offense if the person knowingly presents for filing or causes to be presented for filing a financing statement that the person knows:

(1) is forged;

(2) contains a material false statement; or

(3) is groundless.

(b) An offense under Subsection (a)(1) is a felony of the third degree, unless it is shown on the trial of the offense that the person had previously been convicted under this section on two or more occasions, in which event the offense is a felony of the

second degree. An offense under Subsection (a)(2) or (a)(3) is a Class A misdemeanor, unless the person commits the offense with the intent to defraud or harm another, in which event the offense is a state jail felony.

Added by Acts 1997, 75th Leg., ch. 189, § 10, eff. May 21, 1997.

§ 37.11. IMPERSONATING PUBLIC SERVANT. (a) A person commits an offense if he:

(1) impersonates a public servant with intent to induce another to submit to his pretended official authority or to rely on his pretended official acts; or

(2) knowingly purports to exercise any function of a public servant or of a public office, including that of a judge and court, and the position or office through which he purports to exercise a function of a public servant or public office has no lawful existence under the constitution or laws of this state or of the United States.

(b) An offense under this section is a felony of the third degree.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 189, § 7, eff. May 21, 1997.

§ 37.12. FALSE IDENTIFICATION AS PEACE OFFICER; MISREPRESENTATION OF PROPERTY. (a) A person commits an offense if:

(1) the person makes, provides to another person, or possesses a card, document, badge, insignia, shoulder emblem, or other item bearing an insignia of a law enforcement agency that identifies a person as a peace officer or a reserve law enforcement officer; and

(2) the person who makes, provides, or possesses the item bearing the insignia knows that the person so identified by the item is not commissioned as a peace officer or reserve law enforcement officer as indicated on the item.

(b) It is a defense to prosecution under this section that:

(1) the card, document, badge, insignia, shoulder emblem, or other item bearing an insignia of a law enforcement agency clearly identifies the person as an honorary or junior peace

officer or reserve law enforcement officer, or as a member of a junior posse;

(2) the person identified as a peace officer or reserve law enforcement officer by the item bearing the insignia was commissioned in that capacity when the item was made; or

(3) the item was used or intended for use exclusively for decorative purposes or in an artistic or dramatic presentation.

(c) In this section, "reserve law enforcement officer" has the same meaning as is given that term in Section 1701.001, Occupations Code.

(d) A person commits an offense if the person intentionally or knowingly misrepresents an object as property belonging to a law enforcement agency.

(e) An offense under this section is a Class B misdemeanor.

Added by Acts 1983, 68th Leg., p. 5672, ch. 1075, § 1, eff. Sept. 1, 1983. Amended by Acts 1987, 70th Leg., ch. 514, § 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2001, 77th Leg., ch. 1420, § 14.831, eff. Sept. 1, 2001.

§ 37.13. RECORD OF A FRAUDULENT COURT. (a) A person commits an offense if the person makes, presents, or uses any document or other record with:

(1) knowledge that the document or other record is not a record of a court created under or established by the constitution or laws of this state or of the United States; and

(2) the intent that the document or other record be given the same legal effect as a record of a court created under or established by the constitution or laws of this state or of the United States.

(b) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under this section on two or more occasions.

(c) If conduct that constitutes an offense under this section also constitutes an offense under Section 32.48 or 37.10, the actor may be prosecuted under any of those sections.

Added by Acts 1997, 75th Leg., ch. 189, § 8, eff. May 21, 1997.