

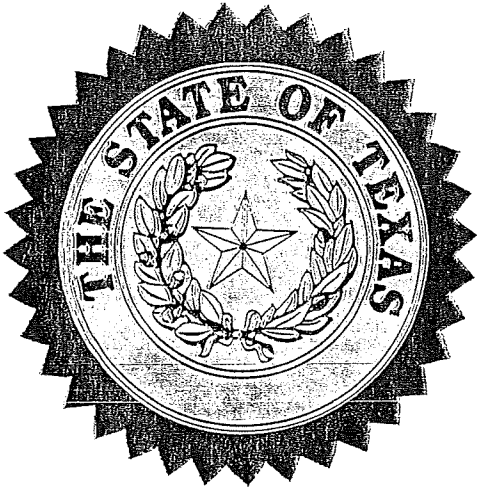


THE STATE OF TEXAS
EXECUTIVE DEPARTMENT

TO ALL TO WHOM THESE PRESENTS SHALL COME, G R E E T I N G S:

I, RICK PERRY, Governor of Texas, do hereby appoint TEXAS RANGER NICK HANNA OF THE TEXAS RANGER DIVISION OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY, OR ANOTHER TEXAS RANGER DESIGNATED BY THE TEXAS RANGER DIVISION as agent(s) to receive WARREN STEED JEFFS, fugitive from justice, from the appropriate authorities of the State of UTAH, and convey said fugitive to the State of Texas, there to be dealt with according to law.

IN WITNESS WHEREOF, I have hereunto signed my name and caused to be affixed the Great Seal of State, at Austin, Texas, this 29th day of July, A.D., 2010.



Rick Perry

RICK PERRY, GOVERNOR

By the Governor:

Esperanza Andrade

ESPERANZA "HOPE" ANDRADE
SECRETARY OF STATE

APPLICATION FOR REQUISITION

OF

WARREN STEED JEFFS

TO HIS EXCELLENCY RICK PERRY, GOVERNOR OF THE STATE OF TEXAS:

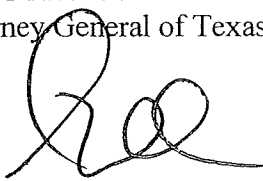
I, Eric J.R. Nichols, Deputy Attorney General for Criminal Justice, and Assistant Prosecuting Attorney by Appointment for the 51st Judicial District of Texas, do hereby make Application for Requisition and Return to this State of Texas for WARREN STEED JEFFS, who stands charged by accompanying copies of indictments now pending in the 51st Judicial District Court of Schleicher County, Texas, with the felony offenses of: AGGRAVATED SEXUAL ASSAULT OF A CHILD; SEXUAL ASSAULT; and BIGAMY, in violation of Tex. Penal Code §§22.021(a)(1)(A)(i), 22.011(a)(2), and 25.01, respectively. It is alleged that WARREN STEED JEFFS committed the acts on or about August 6, 2006, on or about January 14, 2005, and on or about July 27, 2006, for which he has been charged by indictment while he was physically present in said County and State, but WARREN STEED JEFFS has, since the commission of said offenses, left the jurisdiction of this State and is currently held in the Utah State Penitentiary in Draper, Utah.

The ends of justice require and demand that WARREN STEED JEFFS be brought back to this State for trial. The State intends to seek justice in these cases by bringing WARREN STEED JEFFS to trial for the acts set out in the indictments.

I nominate Texas Ranger Nick Hanna of the Texas Ranger Division of the Texas Department of Public Safety, or another Texas Ranger designated by the Texas Ranger Division, as a proper person to be appointed and commissioned by you as the Agent of this State to receive the said fugitive and to deliver him into the custody of the Sheriff of Schleicher County. I do hereby certify that the Agent has no private interest in the proposed arrest. This demand for requisition of said fugitive is not sought for the purpose of collecting a debt, or enforcing a civil remedy, or to answer any other private end whatsoever.

Respectfully submitted,

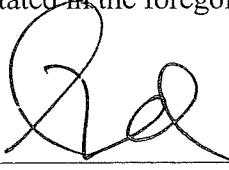
GREG ABBOTT
Attorney General of Texas



By: _____
Eric J.R. Nichols
Deputy Attorney General for Criminal Justice
State Bar No. 14994900
P.O. Box 12548
Austin, Texas 78711
(512) 936-1311

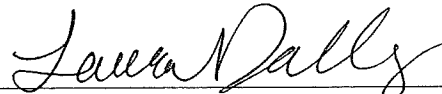
THE STATE OF TEXAS §
 §
THE COUNTY OF TRAVIS §

I, Eric J.R. Nichols, Deputy Attorney General for Criminal Justice in and for the State of Texas, being duly sworn, on my oath say that the facts stated in the foregoing Application for Requisition are true and correct.

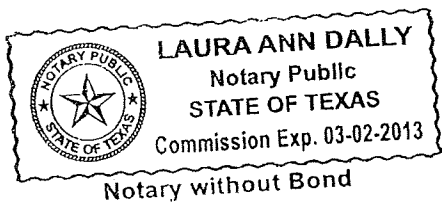


Eric J.R. Nichols

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority
on this the 29 day of July, 2010.



Notary Public in and for the State of Texas
My commission expires: 3-2-2013



AFFIDAVIT FOR EXTRADITION

THE STATE OF TEXAS §
THE COUNTY OF TOM GREEN §

BEFORE ME, the undersigned authority, on this day personally appeared the undersigned affiant, who after being duly sworn, on oath stated:

"My name is Wesley Hensley, and I am an investigator employed by the Texas Attorney General's Office, and I am a certified peace officer under the laws of the State of Texas.

"I have good reason to believe and do believe that WARREN STEED JEFFS, Male, DOB: [REDACTED], Social Security Number [REDACTED], Height 6' 3" , Weight 145 lbs., has been indicted in the County of Schleicher, State of Texas, for the felony offenses of Aggravated Sexual Assault, Sexual Assault, and Bigamy, in violation of Tex. Penal Code §§22.021(a)(1)(A)(i), 22.011(a)(2), and 25.01, respectively. These charges provide that:

"WARREN STEED JEFFS did then and there:

on or about August 6, 2006, and before the presentment of the indictment, intentionally or knowingly cause the penetration of the female sexual organ of [REDACTED], a child who was then and there younger than 14 years of age and not legally married to the Defendant, by the said Defendant's sexual organ;

on or about January 14, 2005, and before the presentment of the indictment, intentionally or knowingly cause the penetration of the female sexual organ of [REDACTED], a child who was then and there younger than 17 years of age and not legally married to the Defendant, by the said Defendant's sexual organ; and the said [REDACTED] was a person whom the Defendant was prohibited from marrying or purporting to marry or with whom the Defendant was prohibited from living under the appearance of being married under Texas Penal Code Sec. 25.01;

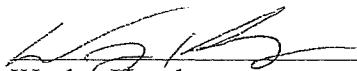
on or about the July 27, 2006, and before the presentment of the indictment, while being legally married to Annette Barlow, intentionally or knowingly purport to marry [REDACTED], a person other than his spouse, said purported marriage occurring in the State of Texas under circumstances that would, but for the defendant's prior marriage, constitute a marriage, and the said [REDACTED] was then and there younger than 16 years of age,

"My belief is based, in part, upon the following facts and information: that the Grand Jury of Schleicher County, Texas for the April 2008 Term returned True Bills of Indictment against the aforesaid WARREN STEED JEFFS, as follows:

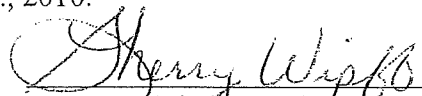
Cause Number 1017, wherein he is charged with the first degree felony offense of Aggravated Sexual Assault;

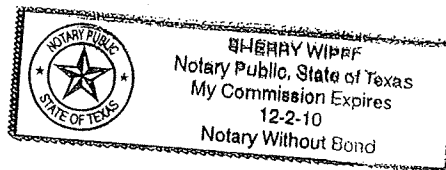
Cause Number 990, wherein he is charged with the second degree felony offense of Sexual Assault; and

Cause Number 997, wherein he is charged with the first degree felony offense of Bigamy."


Wesley Hensley
Affiant

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned authority on this the 28th day of JULY , A.D., 2010.


Notary Public in and for the State of Texas
My commission expires: 12-2-10



THE STATE OF TEXAS

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THE COUNTY OF TOM GREEN

I, Peggy Williams, District Clerk for the County of Schleicher, State of Texas, do certify that the attached transcript of record is a true and correct copy of the indictments and capias warrants on file in my office in Cause Numbers 990, 997, and 1017, each entitled **THE STATE OF TEXAS vs. WARREN STEED JEFFS**.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court of the 51st Judicial District of the State of Texas, on this the 27 day of July A.D., 2010.



Peggy Williams

Peggy Williams District Clerk
51st Judicial District
Schleicher County, Texas

THE STATE OF TEXAS

§

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THE COUNTY OF TOM GREEN

§

I, Barbara Walther, Judge of the 51st Judicial District Court, State of Texas, do hereby certify that the foregoing certificate and attestation of Peggy Williams District Clerk in and for the County of Schleicher, State of Texas, is in due form; and that the said Peggy Williams, District Clerk in and for the County of Schleicher, State of Texas, is the proper custodian of the files and records referred to in the said certificate, and is authorized by law to make exemplified copies of the same, and is authorized by law to affix the seal of said Court thereto; and that the signature of Peggy Williams affixed to the foregoing certificate is her genuine signature and the authentic seal of said Court.

SIGNED on this the 27 day of July A.D., 2010.

Barbara Walther

Barbara Walther, Judge Presiding
51st Judicial District Court
Schleicher County, Texas

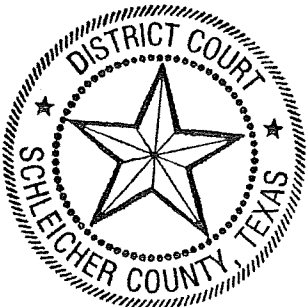
THE STATE OF TEXAS

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THE COUNTY OF TOM GREEN

I, Peggy Williams District Clerk for the County of Schleicher, State of Texas, do hereby certify that Judge Barbara Walther, who signed the foregoing certificate, is the duly commissioned and qualified judge of said Court and that her signature to the foregoing certificate is her genuine signature.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Court, in Eldorado, Schleicher County, Texas, on this the 27 day of July A.D., 2010.



Peggy Williams

Peggy Williams District Clerk
51st Judicial District
Schleicher County, Texas

ORIGINAL



True and Correct Copy of the Original Filed
in the Office of the County or District Clerk
Schleicher County, Texas

GRAND JURY INDICTMENT

No. 990

Bond \$ 100,000.00 B2H

THE STATE OF TEXAS VS. WARREN STEED JEFFS

Charge: **SEXUAL ASSAULT**
Texas Penal Code Sec. 22.011(a)(2) - 1st Degree Felony

Court: 51ST JUDICIAL DISTRICT COURT

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of Schleicher, State of Texas, duly selected, impaneled, sworn, charged, and organized as such at the June term, 2008 of the 51st Judicial District Court of said County upon their oaths present in and to said court at said term that:

WARREN STEED JEFFS

hereinafter styled Defendant, on or about the 14th day of January, 2005, and before the presentment of this indictment, in the County and State aforesaid, did then and there, intentionally or knowingly cause the penetration of the female sexual organ of [REDACTED], a child who was then and there younger than 17 years of age and not legally married to the Defendant, by the said Defendant's sexual organ;

And it is further presented in and to said Court that the said [REDACTED] was a person who the Defendant was prohibited from marrying or purporting to marry or with whom the Defendant was prohibited from living under the appearance of being married under Texas Penal Code Sec. 25.01;

against the peace and dignity of the State.

FILED 7/22 08 FOR RECORD
PEGGY WILLIAMS, CLERK
COUNTY AND DISTRICT COURT
SCHLEICHER COUNTY, TEXAS

Peggy Williams
6:18 P.M.

Ray Ballard
Foreman of the Grand Jury

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in any office.

Peggy Williams, County or District Clerk
Schleicher County, Texas

Peggy Williams

GRAND JURY INDICTMENT



True and Correct Copy of the Original
in the Office of the County or District
Clerk
Schleicher County, Texas

No. 997

Bond \$ 10,000 Surety

No Contact with M. Jessop

THE STATE OF TEXAS VS. WARREN STEED JEFFS

Charge: Bigamy
(Texas Penal Code Sec. 25.01) - 1ST Degree Felony

Court: 51st Judicial District

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of Schleicher, State of Texas, duly selected, impaneled, sworn, charged, and organized as such at the June term, 2008 of the 51st Judicial District Court of said County upon their oaths present in and to said court at said term that:

WARREN STEED JEFFS

hereinafter styled Defendant, on or about the 27th day of July, 2006, and before the presentment of this indictment, in the County and State aforesaid:

did then and there, while being legally married to Annette Barlow, intentionally or knowingly purport to marry [REDACTED], a person other than his spouse, said purported marriage occurring in the State of Texas under circumstances that would, but for the defendant's prior marriage, constitute a marriage, and the said [REDACTED] was then and there younger than 16 years of age,

against the peace and dignity of the State.

Roy E. Ballard
Foreman of the Grand Jury

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in any office

Attest: 7/27 2010
Peggy Williams, County or District Clerk
Schleicher County, Texas

Peggy Williams Secretary

FILED 8/21 2008 FOR RECORD
PEGGY WILLIAMS, CLERK
COUNTY AND DISTRICT COURT
SCHLEICHER COUNTY, TEXAS

Sarah McNealy
7:44 P.M.

GRAND JURY INDICTMENT



True and Correct Copy of the Original
in the Office of the County or District
Clerk
Schleicher County, Texas

No. 1017

Bond \$ 100,000.

NO contact with victim

THE STATE OF TEXAS VS. WARREN STEED JEFFS

Charge: **AGGRAVATED SEXUAL ASSAULT**
(Texas Penal Code Sec. 22.021(a)(1)(A)(i)) - First Degree Felony
Court: 51st Judicial District

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

THE GRAND JURY, for the County of Schleicher, State of Texas, duly selected, impaneled, sworn, charged, and organized as such at the April Term, 2008 of the 51st Judicial District Court of said County upon their oaths present in and to said court at said term that:

WARREN STEED JEFFS

hereinafter styled Defendant, on or about August 6, 2006, and before the presentment of this indictment, in the County and State aforesaid, did then and there, intentionally or knowingly cause the penetration of the female sexual organ of [REDACTED], a child who was then and there younger than 14 years of age and not legally married to the Defendant, by the said Defendant's sexual organ,

against the peace and dignity of the State.

Ray Baller

Foreman of the Grand Jury

The document to which this certificate is affixed is a full, true and correct copy of the original on file and of record in any office

Attest July 27 20 10
Peggy Williams, County or District Clerk
Schleicher County, Texas
Peggy Williams

FILED 11/21/08 FOR RECORD
PEGGY WILLIAMS, CLERK
COUNTY AND DISTRICT COURT
SCHLEICHER COUNTY, TEXAS
Peggy Williams
2:10 PM



OFFICE OF THE GOVERNOR

July 29, 2010

14-67994

RICK PERRY

GOVERNOR

The Honorable Gary R. Herbert
Governor of Utah
State Capitol Complex
P.O. Box 142330
Salt Lake City, Utah 84114

Attn: Jo Lynn Kruse, Extradition Coordinator, (801) 538-1031

Re: Extradition of **WARREN STEED JEFFS**, Cause No. 1017, 990, & 997

Dear Governor Herbert,

I am enclosing requisition papers in the case of the above-named subject. If you honor this request, please forward the necessary papers to either of the below-listed addresses, depending on the location of the defendant at the time the warrant is issued:

Washington County Purgatory Correctional Facility or
Sheriff Kirk Smith
750 South 5400 West
Hurricane, Utah 84737

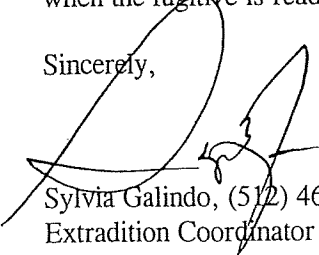
Utah State Prison
(Draper Prison)
P.O. Box 250
Draper, Utah 84020

Please notify

Nick Hanna, Texas Ranger, (325) 223-2640
Texas Ranger Company EE
Department of Public Safety Office
1600 West Loop 306
San Angelo, Texas 76904-7161

when the fugitive is ready for release to the custody of our agents.

Sincerely,



Sylvia Galindo, (512) 463-1948
Extradition Coordinator

Enclosure

cc: Mr. Eric J. R. Nichols, Deputy Attorney General for Criminal Justice, P.O. Box 12548,
Austin, Texas 78711-2548, (512) 936-1311



THE STATE OF TEXAS
EXECUTIVE DEPARTMENT

THE GOVERNOR OF THE STATE OF TEXAS, TO HIS EXCELLENCY THE GOVERNOR OF THE STATE OF UTAH:

WHEREAS, it appears by the annexed application for requisition and copies of INDICTMENTS AND CAPIASES which I certify are authentic and duly authenticated in accordance with the laws of the State of Texas, that under the laws of this State WARREN STEED JEFFS stands charged with the crimes of AGGRAVATED SEXUAL ASSAULT OF A CHILD; SEXUAL ASSAULT; AND BIGAMY committed in this State, and it has been represented and is satisfactorily shown to me that the accused was present in this State at the time of the commission of said crimes and thereafter fled from the justice of this State, and has taken refuge and is now to be found in the State of UTAH;

NOW, THEREFORE, pursuant to the provisions of the Constitution and the laws of the United States and the laws of the State of Texas and the laws of the State of UTAH, I do hereby respectfully demand that the above-named fugitive from justice be arrested and secured and delivered to TEXAS RANGER NICK HANNA OF THE TEXAS RANGER DIVISION OF THE TEXAS DEPARTMENT OF PUBLIC SAFETY, OR ANOTHER TEXAS RANGER DESIGNATED BY THE TEXAS RANGER DIVISION as agent(s) hereby authorized to receive, convey, and transport said fugitive to this State, here to be dealt with according to law.

IN WITNESS WHEREOF, I have hereunto signed my name and caused to be affixed the Great Seal of State, at Austin, Texas, this 29th day of July, A.D., 2010.



Rick Perry

RICK PERRY, GOVERNOR

By the Governor:

Esperanza Andrade

ESPERANZA "HOPE" ANDRADE
SECRETARY OF STATE


STATE OF TEXAS §

COUNTY OF TOM GREEN §

AFFIDAVIT OF IDENTIFICATION

"I, Sgt. Wes Hensley, a certified peace officer under the laws of the State of Texas, employed by the Texas Attorney General's Office, hereby swear and affirm that the attached certified copies of the Washington County, Utah booking photo, finger print card and identifying information depict the individual known to me as WARREN STEED JEFFS, and that the said WARREN STEED JEFFS is the same individual indicted in Texas for Aggravated Sexual Assault, Sexual Assault, and Bigamy, in violation of Tex. Penal Code §§22.021(a)(1)(A)(i), 22.011(a)(2), and 25.01.

"I have personally seen the WARREN STEED JEFFS who is currently being detained in Utah, and he is one and the same WARREN STEED JEFFS who is being sought by the State of Texas."



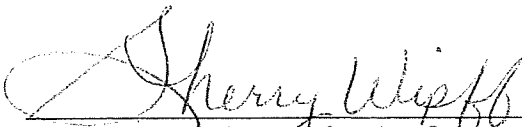
Sgt. Wesley Hensley, Affiant

STATE OF TEXAS §

COUNTY OF TOM GREEN §

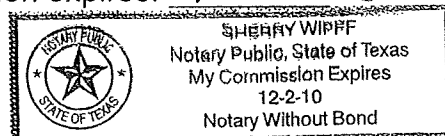
Before me, the undersigned authority, Sgt. Wesley Hensley, personally appeared and stated under oath that he is fully qualified and authorized to make this Affidavit, and the foregoing statements in this Affidavit of Identification are true and correct.

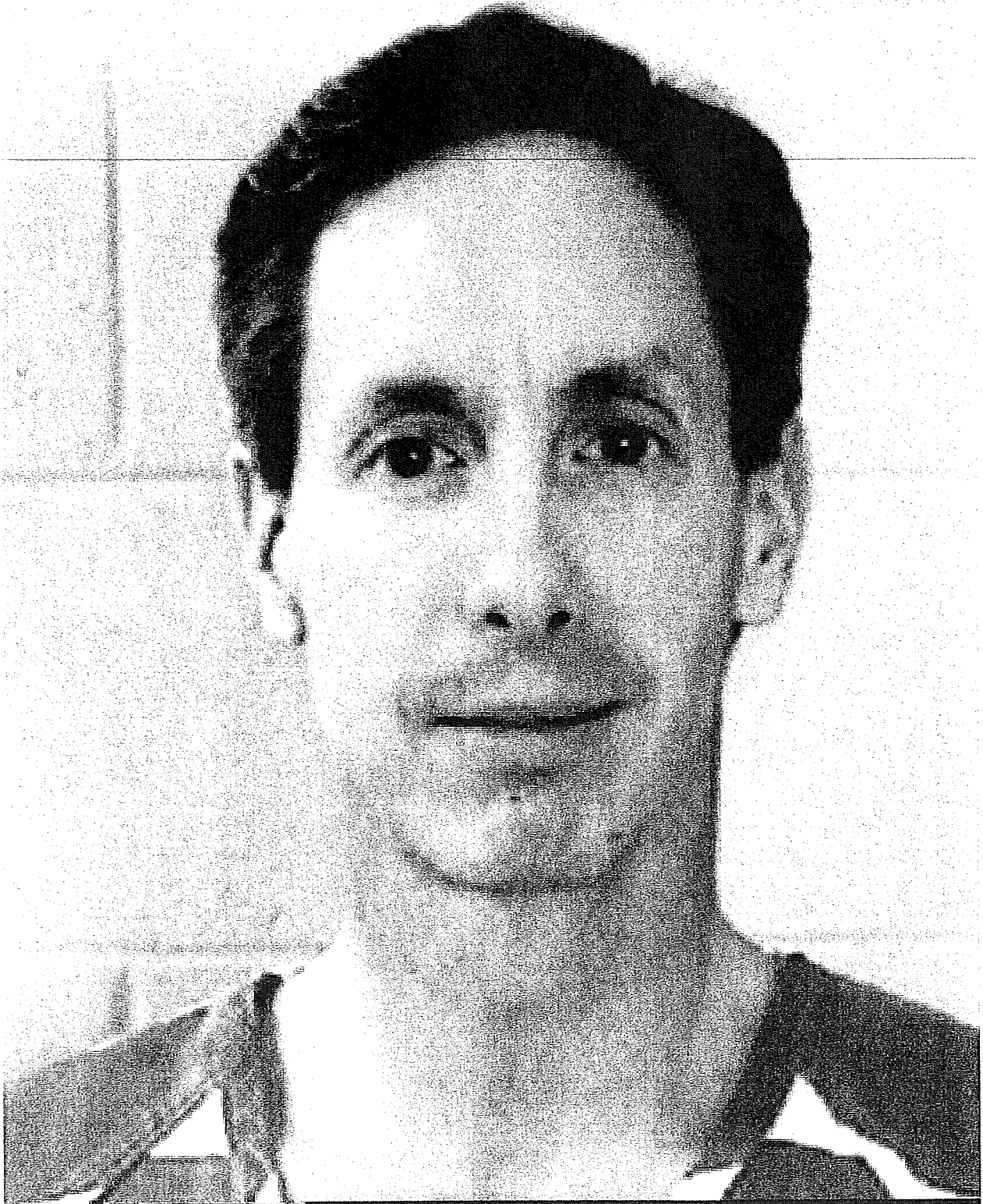
SWORN TO AND SUBSCRIBED before me on this 28th day of July, 2010.



Notary Public in and for the State of Texas

My commission expires: 12-2-10





JEFFS, WARREN STEED

I certify that this document or record, is a full,
true, and correct copy of the original on file in
this office.

Date: 7/27/10

By: [Signature]

Washington County Sheriffs Office
750 South 5400 West
Hurricane, Utah 84737

§ 22.01

Note 44

Defendant's successful completion of community supervision in lieu of incarceration for assault of family member did not erase conviction for that offense, and thus, application of amended enhancement statute to allow use of prior conviction to enhance subsequent convictions for assault of family member, which statute did not exist at time defendant was placed on community supervision, did not constitute *ex post facto* law. *Comeaux v. State* (App. 9 Dist. 2004) 151 S.W.3d 710. Constitutional Law ⇨ 2816; Sentencing And Punishment ⇨ 17(1)

Whether jury's affirmative finding of family violence, by a preponderance of the evidence, in prosecution for misdemeanor assault would sustain an increased penalty in a future prosecution of defendant was not ripe for appellate review. *Word v. State* (Cr.App. 2006) 206 S.W.3d 646. Criminal Law ⇨ 1134(3)

Evidence was sufficient to support jury's finding that defendant intentionally selected victim because of a bias or prejudice against victim's race, so as to support punishment enhancement of aggravated assault with a deadly weapon under Hate Crimes Act; defendant provoked victim by directing racial comments, threatened victim by stating that "[y]ou heard me nigger[,] I'll hit you in the face with this bottle," used racial slurs before, during, and after assault, and called people who went to victim's aid "nigger lovers" and "dead bitch." *Jaynes v. State* (App. 13 Dist. 2006) 216 S.W.3d 839. Sentencing And Punishment ⇨ 70

45. Review

State v. Cagle (App. 14 Dist. 2002) 77 S.W.3d 344, [main volume] petition for discretionary review refused.

Trial court's pre-trial rulings did not contain error in prosecution for assaulting a public servant, where record reflected that court did not make any ruling adverse to defendant; record reflected that court heard defendant's discovery motion regarding production of videotape from arresting officer's squad car and any audiotape of emergency call made by convenience store clerk, state responded that it had no such evidence in its custody or control, and court ruled it would permit defendant to subpoena any relevant videotapes or audiotapes for trial. *Gearhart v. State* (App. 13 Dist. 2003) 122 S.W.3d 459, petition stricken, petition for discretionary review refused. Criminal Law ⇨ 627.6(3)

Defendant's "in pari materia" claim in prosecution for felony aggravated assault relating to alleged hazing incident as part of victim's initiation into college fraternity, that defendant had due process right to be prosecuted under hazing statute because it was special statute that irreconcil-

OFFENSES AGAINST THE PERSON

Title 5

ably conflicted with assault statute, was not cognizable in application for pretrial writ of habeas corpus, because claim was not ripe for review; State had not had opportunity to develop complete factual record during trial, and it was apparent that State had more evidence to present, about which reviewing court could only speculate. *Ex parte Smith* (Cr.App. 2006) 185 S.W.3d 887, rehearing denied. Habeas Corpus ⇨ 275.1

Defendant's contention that trial court's entry of affirmative finding that defendant committed family violence in course of committing assault violated defendant's Sixth Amendment rights was preserved for appellate review where, before sentence was imposed, defendant objected to trial court's stated intention to make affirmative finding on ground that there had been no jury finding. *Henderson v. State* (App. 3 Dist. 2006) 208 S.W.3d 593, petition for discretionary review refused. Criminal Law ⇨ 1035(1)

Defendant failed to preserve for appellate review claim that trial court erred by including, in abstract portion of charge on aggravated assault, definition of "recklessly"; although defendant objected to charging paragraph, and trial court sustained objection and removed reference to "recklessly" causing bodily injury from application paragraph, defendant did not specifically object to definition of "reckless" or "acting recklessly." *Williams v. State* (App. 1 Dist. 2007) 226 S.W.3d 611. Criminal Law ⇨ 1043(3)

Remand for development of the record and reconsideration of sentence enhancement imposed upon conviction for illegal reentry after deportation following conviction for an aggravated felony was required, where Court of Appeals was unable to determine from the record on appeal the elements of assault to which defendant pleaded guilty in his underlying Texas conviction for Class A misdemeanor assault. *U.S. v. Ramirez-Aguilar*, C.A.5 (Tex.)2006, 171 Fed.Appx. 449, 2006 WL 684433, Unreported, certiorari denied 127 S.Ct. 161, 166 L.Ed.2d 114. Criminal Law ⇨ 1181.5(8)

46. Jury

Trial court committed no error during venire examination of jurors in prosecution for assaulting a public servant; although review of voir dire examination showed that 16 venire members knew prosecutor or his family, they all indicated they would consider facts of case and not base their decision on their knowledge of prosecutor or his family, neither state nor defendant raised challenge for cause, and court did not limit defendant's questioning of jury. *Gearhart v. State* (App. 13 Dist. 2003) 122 S.W.3d 459, petition stricken, petition for discretionary review refused. Jury ⇨ 91; Jury ⇨ 131(4)

OFFENSES AGAINST THE PERSON

Title 5

(B) causes the penetration of the reactor, without that person's consent; or

(C) causes the sexual organ of a person to contact or penetrate the mouth, anus or actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the ar

(B) causes the penetration of the m

(C) causes the sexual organ of a sexual organ of another person, includ

(D) causes the anus of a child to c person, including the actor; or

(E) causes the mouth of a child to including the actor.

(b) A sexual assault under Subsection

(1) the actor compels the other pers force or violence;

(2) the actor compels the other pers force or violence against the other pers the present ability to execute the threa

(3) the other person has not cons unconscious or physically unable to resi

(4) the actor knows that as a result c time of the sexual assault incapable eitl it;

(5) the other person has not consent that the sexual assault is occurring;

(6) the actor has intentionally impai the other person's conduct by admin knowledge;

(7) the actor compels the other per force or violence against any person, ability to execute the threat;

(8) the actor is a public servant who

(9) the actor is a mental health serv causes the other person, who is a p participate by exploiting the other per.

(10) the actor is a clergyman who exploiting the other person's emotion professional character as spiritual adv.

(11) the actor is an employee of a fa employee and resident are formally o Family Code.

(c) In this section:

(1) "Child" means a person young actor.

(2) "Spouse" means a person who is

(3) "Health care services provider"

(A) a physician licensed under St

(B) a chiropractor licensed unde

(C) a physical therapist licensed

(D) a physician assistant licensec

§ 22.011. Sexual Assault

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

(1) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of another person by any means, without that person's consent;

ably conflicted with assault statute, was not cognizable in application for pretrial writ of habeas corpus, because claim was not ripe for review; defendant had not had opportunity to develop complete trial record during trial, and it was apparent that State had more evidence to present, about which reviewing court could only speculate. Ex parte Smith (Cr.App. 2006) 185 S.W.3d 887, rehearing denied. Habeas Corpus ⇌ 275.1

Defendant's contention that trial court's entry of affirmative finding that defendant committed family violence in course of committing assault violated defendant's Sixth Amendment rights was preserved for appellate review where, before sentence was imposed, defendant objected to trial court's stated intention to make affirmative finding on ground that there had been no jury finding. Henderson v. State (App. 3 Dist. 2006) 208 S.W.3d 593, petition for discretionary review refused. Criminal Law ⇌ 1035(1)

Defendant failed to preserve for appellate review claim that trial court erred by including, in abstract portion of charge on aggravated assault, definition of "recklessly"; although defendant objected to charging paragraph, and trial court sustained objection and removed reference to "recklessly" causing bodily injury from application paragraph, defendant did not specifically object to definition of "reckless" or "acting recklessly." Williams v. State (App. 1 Dist. 2007) 226 S.W.3d 611. Criminal Law ⇌ 1043(3)

Remand for development of the record and reconsideration of sentence enhancement imposed upon conviction for illegal reentry, after deportation following conviction for an aggravated felony was required, where Court of Appeals was unable to determine from the record on appeal the elements of assault to which defendant pleaded guilty in underlying Texas conviction for Class A misdemeanor assault. U.S. v. Ramirez-Aguilar, C.A.5 (Tex.)2006, 171 Fed.Appx. 449, 2006 WL 384433, Unreported, certiorari denied 127 S.Ct. 161, 166 L.Ed.2d 114. Criminal Law ⇌ 1181.5(8)

16. Jury

Trial court committed no error during venire examination of jurors in prosecution for assaulting a public servant; although review of voir dire examination showed that 16 venire members knew prosecutor or his family, they all indicated they would consider facts of case and not base their decision on their knowledge of prosecutor or his family, neither state nor defendant raised challenge for cause, and court did not limit defendant's questioning of jury. Gearhart v. State (App. 13 Dist. 2003) 122 S.W.3d 459, petition stricken, petition for discretionary review refused. Jury ⇌ 91; Jury ⇌ 131(4)

or sexual organ of another person by any

(B) causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

(C) causes the sexual organ of another person, without that person's consent, to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor; or

(2) intentionally or knowingly:

(A) causes the penetration of the anus or sexual organ of a child by any means;

(B) causes the penetration of the mouth of a child by the sexual organ of the actor;

(C) causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

(D) causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

(E) causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

(b) A sexual assault under Subsection (a)(1) is without the consent of the other person if:

(1) the actor compels the other person to submit or participate by the use of physical force or violence;

(2) the actor compels the other person to submit or participate by threatening to use force or violence against the other person, and the other person believes that the actor has the present ability to execute the threat;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the sexual assault incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring;

(6) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge;

(7) the actor compels the other person to submit or participate by threatening to use force or violence against any person, and the other person believes that the actor has the ability to execute the threat;

(8) the actor is a public servant who coerces the other person to submit or participate;

(9) the actor is a mental health services provider or a health care services provider who causes the other person, who is a patient or former patient of the actor, to submit or participate by exploiting the other person's emotional dependency on the actor;

(10) the actor is a clergyman who causes the other person to submit or participate by exploiting the other person's emotional dependency on the clergyman in the clergyman's professional character as spiritual adviser; or

(11) the actor is an employee of a facility where the other person is a resident, unless the employee and resident are formally or informally married to each other under Chapter 2, Family Code.

(c) In this section:

(1) "Child" means a person younger than 17 years of age who is not the spouse of the actor.

(2) "Spouse" means a person who is legally married to another.

(3) "Health care services provider" means:

(A) a physician licensed under Subtitle B, Title 3, Occupations Code;¹

(B) a chiropractor licensed under Chapter 201, Occupations Code;

(C) a physical therapist licensed under Chapter 453, Occupations Code;

(D) a physician assistant licensed under Chapter 204, Occupations Code; or

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(E) a registered nurse, a vocational nurse, or an advanced practice nurse licensed under Chapter 301, Occupations Code.

(4) "Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

- (A) licensed social worker as defined by Section 505.002, Occupations Code;
(B) chemical dependency counselor as defined by Section 504.001, Occupations Code;
(C) licensed professional counselor as defined by Section 503.002, Occupations Code;
(D) licensed marriage and family therapist as defined by Section 502.002, Occupations Code;

(E) member of the clergy;

(F) psychologist offering psychological services as defined by Section 501.003, Occupations Code; or

(G) special officer for mental health assignment certified under Section 1701.404, Occupations Code.

(5) "Employee of a facility" means a person who is an employee of a facility defined by Section 250.001, Health and Safety Code, or any other person who provides services for a facility for compensation, including a contract laborer.

(d) It is a defense to prosecution under Subsection (a)(2) that the conduct consisted of medical care for the child and did not include any contact between the anus or sexual organ of the child and the mouth, anus, or sexual organ of the actor or a third party.

(e) It is an affirmative defense to prosecution under Subsection (a)(2) that:

(1) the actor was not more than three years older than the victim and at the time of the offense:

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

(B) was not a person who under Chapter 62, Code of Criminal Procedure, had a reportable conviction or adjudication for an offense under this section; and

(2) the victim:

(A) was a child of 14 years of age or older; and

(B) was not a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

(f) An offense under this section is a felony of the second degree, except that an offense under this section is a felony of the first degree if the victim was a person whom the actor was prohibited from marrying or purporting to marry or with whom the actor was prohibited from living under the appearance of being married under Section 25.01.

Added by Acts 1983, 68th Leg., p. 5312, ch. 977, § 3, eff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg., ch. 557, § 1, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 1029, § 1, eff. Sept. 1, 1987; Acts 1991, 72nd Leg., ch. 662, § 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 273, § 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 318, § 6, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1031, §§ 1, 2, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1286, § 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1102, § 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1415, § 24, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, § 14.829, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 155, §§ 1, 2, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 528, § 1, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 553, § 2.017, eff. Feb. 1, 2004; Acts 2005, 79th Leg., ch. 268, § 4.02, eff. Sept. 1, 2005.

1 V.T.C.A., Occupations Code § 151.001 et seq.

Historical and Statutory Notes

2003 Legislation

Acts 2003, 78th Leg., ch. 155 added subsecs. (b)(11) and (c)(5) and made other nonsubstantive changes.

Section 3(b) of Acts 2003, 78th Leg., ch. 155 provides:

"(b) The change in law made by this Act applies only to an offense committed on or after the

effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense was committed before that date."

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Acts 2003, 78th Leg., ch. 528 in subds. (a)(1) and (a)(2)(A), deleted "female" preceding "sex organ".

Section 3(b) of Acts 2003, 78th Leg., ch. provides:

"(b) The change in law made by this Act applies only to an offense committed on or after September 1, 2003. An offense committed before September 1, 2003, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 2003, if any element of the offense was committed before that date."

Acts 2003, 78th Leg., ch. 553, in subsec. (C) deleted par. (C), and redesignated pars. (D) through (F) as (C) through (E), respectively. Prior to deletion subsec. (c)(3)(C) read:

"(C) a licensed vocational nurse licensed under Chapter 302, Occupations Code;"

Section 3.005 of Acts 2003, 78th Leg., ch. provides:

"In the event of a conflict between a provision of this Act and another Act passed by the Legislature, Regular Session, 2003, that bears the same or a later date of enactment, this Act prevails and controls regarding the relative dates of enactment."

2005 Legislation

Acts 2005, 79th Leg., ch. 268 rewrote subsecs. (e) and (f), which prior thereto read:

Address confidentiality program for victims of family violence, sexual assault, or stalking. Vernon's Ann.C.C.P. art. 56.81 et seq.

Continuous sexual abuse of young children, see V.T.C.A., Penal Code § 21.02.

Exemption from sex offender registration for certain young adult sex offenders, see Vernon's Ann.C.C.P. art. 62.301.

ALR Library

2002 ALR, Federal 9, Construction and United States Sentencing Guideline (U.S.S.G. § 2K2.1, 18 U.S.C.A.) Pertaining to Unlawful Receipt, Possession, or Transfer of Firearms or Ammunition and Prohibited...

27 ALR, Federal 110, Imposition of Sentence Under Recidivist Statute and Unusual Punishment.

101 ALR 5th 187, Failure of State Provider to Disclose Exculpatory Medical Report Tests as Violating Due Process.

18 ALR 5th 856, Statute Protecting Minor Within Protected Age Group.

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urse, or an advanced practice nurse licensed

an individual, licensed or unlicensed, who
in services, including a:

- Section 505.002, Occupations Code;
- defined by Section 504.001, Occupations Code;
- defined by Section 503.002, Occupations Code;
- as defined by Section 502.002, Occupations

services as defined by Section 501.003, Occupa-
assignment certified under Section 1701.404,

on who is an employee of a facility defined by
any other person who provides services for a
laborer.

subsection (a)(2) that the conduct consisted of
any contact between the anus or sexual organ of
the actor or a third party.

under Subsection (a)(2) that:
older than the victim and at the time of the

, Code of Criminal Procedure, to register for

ster 62, Code of Criminal Procedure, had a
offense under this section; and

r; and
as prohibited from marrying or purporting to
t living under the appearance of being

of the second degree, except that an offense
e if the victim was a person whom the actor
marry or with whom the actor was prohibited
ed under Section 25.01.

ff. Sept. 1, 1983. Amended by Acts 1985, 69th Leg.,
, ch. 1029, § 1, eff. Sept. 1, 1987; Acts 1991, 72nd
Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1995,
4th Leg., ch. 318, § 6, eff. Sept. 1, 1995; Acts 1997,
97, 75th Leg., ch. 1286, § 1, eff. Sept. 1, 1997; Acts
s 1999, 76th Leg., ch. 1415, § 24, eff. Sept. 1, 1999;
001; Acts 2003, 78th Leg., ch. 155, §§ 1, 2, eff. Sept.
1, 2003; Acts 2003, 78th Leg., ch. 553, § 2.017, eff.
Sept. 1, 2005.

Statutory Notes

effective date of this Act. An offense committed
before the effective date of this Act is covered by
the law in effect when the offense was committed,
and the former law is continued in effect for that
purpose. For purposes of this subsection, an of-
fense was committed before the effective date of
this Act if any element of the offense was commit-
ted before that date."

OFFENSES AGAINST THE PERSON

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Acts 2003, 78th Leg., ch. 528 in subds. (a)(1)(A)
and (a)(2)(A), deleted "female" preceding "sexual
organ".

Section 3(b) of Acts 2003, 78th Leg., ch. 528
provides:

"(b) The change in law made by this Act applies
only to an offense committed on or after Septem-
ber 1, 2003. An offense committed before Septem-
ber 1, 2003, is covered by the law in effect when
the offense was committed, and the former law is
continued in effect for that purpose. For the
purposes of this subsection, an offense was com-
mitted before September 1, 2003, if any element of
the offense was committed before that date."

Acts 2003, 78th Leg., ch. 553, in subsec. (c)(3),
deleted par. (C), and redesignated pars. (D) to (F)
as (C) to (E), respectively. Prior to deletion,
subsec. (c)(3)(C) read:

"(C) a licensed vocational nurse licensed un-
der Chapter 302, Occupations Code,"

Section 3.005 of Acts 2003, 78th Leg., ch. 553
provides:

"In the event of a conflict between a provision of
this Act and another Act passed by the 78th
Legislature, Regular Session, 2003, that becomes
law, this Act prevails and controls regardless of
the relative dates of enactment."

2005 Legislation

Acts 2005, 79th Leg., ch. 268 rewrote subsecs.
(e) and (f), which prior thereto read:

Cross References

- Address confidentiality program for victims of
family violence, sexual assault, or stalking, see
Vernon's Ann.C.C.P. art. 56.81 et seq.
- Continuous sexual abuse of young child or chil-
dren, see V.T.C.A., Penal Code § 21.02.
- Exemption from sex offender registration for
certain young adult sex offenders, see Vernon's
Ann.C.C.P. art. 62.301.

"(e) It is an affirmative defense to prosecution
under Subsection (a)(2) that:

"(1) the actor was not more than three years
older than the victim and at the time of the
offense:

"(A) was not required under Chapter 62, Code
of Criminal Procedure, as added by Chapter 668,
Acts of the 75th Legislature, Regular Session,
1997, to register for life as a sex offender; or

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

"(2) the victim was a child of 14 years of age or
older.

"(f) An offense under this section is a felony of
the second degree."

Section 4.19 of Acts 2005, 79th Leg., ch. 268
provides:

"The changes in law made by this article in
amending Article 38.10, Code of Criminal Proce-
dure, and Sections 22.011, 25.01, and 25.02, Penal
Code, apply only to an offense committed on or
after the effective date of this Act. An offense
committed before the effective date of this Act is
covered by the law in effect at the time the offense
was committed, and the former law is continued in
effect for that purpose. For purposes of this
section, an offense was committed before the effec-
tive date of this Act if any element of the offense
was committed before that date."

Research References

- Felonies, see Vernon's Ann.C.C.P. art. 12.01.
- Information in computerized criminal history
system, see Vernon's C.C.P. art. 60.051.
- Magistrate's order for emergency protection, see
Vernon's Ann. C.C.P. art. 17.292.
- Report concerning certain assaultive or terroris-
tic offenses, see Vernon's Ann.C.C.P. art. 2.30.
- Violation of protective order or magistrate's or-
der, see V.T.C.A., Penal Code § 25.07.

ALR Library

- 2002 ALR, Federal 9, Construction and Effect of
United States Sentencing Guideline § 2K2.1
(U.S.S.G. § 2K2.1, 18 U.S.C.A.) Pertaining to
Unlawful Receipt, Possession, or Transporta-
tion of Firearms or Ammunition and to Pro-
hibited...
- 27 ALR, Federal 110, Imposition of Enhanced
Sentence Under Recidivist Statute as Cruel
and Unusual Punishment.
- 101 ALR 5th 187, Failure of State Prosecutor to
Disclose Exculpatory Medical Reports and
Tests as Violating Due Process.
- 18 ALR 5th 856, Statute Protecting Minors in a
Specified Age Range from Rape or Other
Sexual Activity as Applicable to Defendant
Minor Within Protected Age Group.

- 11 ALR 5th 218, Use of Prior Military Convic-
tion to Establish Repeat Offender Status.
- 31 ALR 4th 120, Modern Status of Rule Regard-
ing Necessity for Corroboration of Victim's
Testimony in Prosecution for Sexual Offense.
- 11 ALR 4th 956, Judicial Expunction of Criminal
Record of Convicted Adult.
- 1 ALR 4th 38, Validity and Construction of
Penal Statute Prohibiting Child Abuse.
- 95 ALR 3rd 832, Accused's Right to Discovery
or Inspection of "Rap Sheets" or Similar Po-
lice Records About Prosecution Witnesses.
- 95 ALR 3rd 1181, Modern Status of Admissibili-
ty, in Forcible Rape Prosecution, of Complai-
nant's General Reputation for Unchastity.
- 97 ALR 2nd 549, Court's Duty to Advise or
Admonish Accused as to Consequences of Plea

TITLE 6. OFFENSES AGAINST THE FAMILY

CHAPTER 25. OFFENSES AGAINST THE FAMILY

Section	Section
25.01. Bigamy.	25.07. Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case.
25.02. Prohibited Sexual Conduct.	25.08. Sale or Purchase of Child.
25.03. Interference With Child Custody.	25.10. Interference with Rights of Guardian of the Person.
25.031. Agreement to Abduct From Custody.	
25.07. Violation of Protective Order or Magistrate's Order.	

§ 25.01. Bigamy

(a) An individual commits an offense if:

(1) he is legally married and he:

(A) purports to marry or does marry a person other than his spouse in this state, or any other state or foreign country, under circumstances that would, but for the actor's prior marriage, constitute a marriage; or

(B) lives with a person other than his spouse in this state under the appearance of being married; or

(2) he knows that a married person other than his spouse is married and he:

(A) purports to marry or does marry that person in this state, or any other state or foreign country, under circumstances that would, but for the person's prior marriage, constitute a marriage; or

(B) lives with that person in this state under the appearance of being married.

(b) For purposes of this section, "under the appearance of being married" means holding out that the parties are married with cohabitation and an intent to be married by either party.

(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed at the time of the commission of the offense that the actor and the person whom the actor married or purported to marry or with whom the actor lived under the appearance of being married were legally eligible to be married because the actor's prior marriage was void or had been dissolved by death, divorce, or annulment. For purposes of this subsection, an actor's belief is reasonable if the belief is substantiated by a certified copy of a death certificate or other signed document issued by a court.

(d) For the purposes of this section, the lawful wife or husband of the actor may testify both for or against the actor concerning proof of the original marriage.

(e) An offense under this section is a felony of the third degree, except that if at the time of the commission of the offense, the person whom the actor marries or purports to marry or with whom the actor lives under the appearance of being married is:

(1) 16 years of age or older, the offense is a felony of the second degree; or

(2) younger than 16 years of age, the offense is a felony of the first 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 2005, 79th Leg., ch. 268, § 4.03, eff. Sept. 1, 2005.

Historical and Statutory Notes

2005 Legislation

Acts 2005, 79th Leg., ch. 268 rewrote subsecs. (c) and (e), which prior thereto read:

"(c) It is a defense to prosecution under Subsection (a)(1) that the actor reasonably believed that his marriage was void or had been dissolved by death, divorce, or annulment.

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

Section 4.19 of Acts 2005, 79th Leg., ch. 268 provides:

"The changes in law made by this article in amending Article 38.10, Code of Criminal Procedure, and Sections 22.011, 25.01, and 25.02, Penal

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Code, apply only to an offense committed after the effective date of this Act. An offense committed before the effective date of this Code is covered by the law in effect at the time the offense was committed, and the former law is continued in effect.

Res

Encyclopedias

TX Jur. 3d Criminal Law § 492, in General Definitions.

TX Jur. 3d Criminal Law § 497, Prior Marriage Believed to be Void or Dissolved.

TX Jur. 3d Criminal Law § 502, Proof of Prior Marriage—Testimony of the Spouse.

TX Jur. 3d Family Law § 29, Persons Authorized to Conduct Marriage Ceremony.

TX Jur. 3d Family Law § 57, Matters Affecting to Ceremony as Affecting Validity of Marriage.

TX Jur. 3d Family Law § 58, Competency of Parties as Affecting Validity of Marriage; Effect of Legal Impediments.

Forms

17 West's Texas Forms § 4.1, Legal Summary

Treatises and Practice Aids

Texas Family Law Service § 39:7, Prohibited Marriage of Parties.

Goode, Wellborn & Sharlot, 1 Tex. Prac. R 504, Husband-Wife Privileges.

Goode, Wellborn & Sharlot, 1 Tex. Prac. R § 504.5, Rule 504(A)(4): Husband-Wife Communication Privilege: Exceptions: Proceedings to Establish the Incompetence of Proceedings Between Spouses;...

§ 25.02. Prohibited Sexual Conduct

(a) A person commits an offense if the person has sexual intercourse with another person:

(1) the actor's ancestor or descendant;

(2) the actor's current or former spouse;

(3) the actor's parent's brother or sister;

(4) the actor's brother or sister;

(5) the children of the actor's spouse;

or

(6) the son or daughter of the actor's adoption.

(b) For purposes of this section:

(1) "Deviate sexual intercourse" means sexual intercourse with the mouth or anus of another person.

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