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Acknowledgement

The Texas Commission on Law Enforcement, Officer Standards and Education (TCLEOSE) and the following contributors assisted in revising this course for presentation peace officers in the State of Texas.

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Purpose

This curriculum is designed to meet the continuing education requirements of Texas Government Code 415.034 for peace officers in the State of Texas. This course includes: Child Abuse and Neglect, Family Violence, Sexual Assault and issues concerning Sex Offenders. Within each section are learning objectives for the course including the updates passed by the 80th Legislative Session in 2007. Some of the legislative updates passed will be repeated throughout each topic area because they are applicable.

To ensure that all learning objectives and material of Special Investigative Topics (#3232) are adequately covered and the legislative mandate training in this area are met, this course shall be taught in no less than 8 hours of instructions.
Note to the Training Provider:

This curriculum for the Special Investigative Topics #3232 is the instructor's resource guide. There are PowerPoint slides and sample test questions available upon request by contacting the Education and Training Programs Division to acquire a copy. Instructors have the option to use additional training material in presenting this course. The incorporation of scenarios and role-play is highly recommended to facilitate learning.

It is the responsibility of the training provider to ensure individual copies of the course are current. This may be done by checking the website at www.tcleose.state.tx.us.

Target Population: All licensed peace officers in the Texas

Pre-Requisites: Commissioned peace officer

Length of Course: A minimum 8 hours required


Certification Requirements: Minimum of a Basic Peace Officer Certification

Facility Requirements: Standard classroom set-up

Evaluation Process & Procedures: Classroom interaction with the instructor and other students, scenario and role-play. An examination must be administered.

Reference & Resource Material: Located at the end of the course
Learning Objectives

1.0 **Functional Area:** To provide the officer an understanding of child abuse and neglect and those key changes within the different Texas Codes that may impact on their performance in the critical areas of child abuse.

1.1 **Learning Objective:** The student will be able to define Child Abuse & Neglect in accordance with Chapter 261 of the Texas Family Code.

1.2 **Learning Objective:** The student will be able to list national and state statistics surrounding Child Abuse and Neglect.

1.3 **Learning Objective:** The student will be able to list and describe theories about the causes of Child Abuse and Neglect.

1.4 **Learning Objective:** The student will be able to list methods of reporting and documenting Child Abuse and Neglect by photographs.

1.5 **Learning Objective:** The student will be able to describe when a joint investigation with Child Protective Services is required, and identify requirements for protocols between law enforcement and Child Protective Services.

1.6 **Learning Objective:** The student will be able to describe legislative updates passed during the 80th Legislative Session that are relevant to Child Abuse and Neglect (See Appendix 1).

2.0 **Functional Area:** To provide the officer an understanding of family violence and those key changes within the different Texas Codes that may impact on their performance in the critical areas of family violence.

2.1 **Learning Objective:** The student will be able to define Family Violence in accordance with Section 71.004 Texas Family Code.

2.2 **Learning Objective:** The student will be able to list national and state statistics surrounding Family Violence.

2.3 **Learning Objective:** The student will be able to list and describe some of the types of abuse and characteristic of batterers.

2.4 **Learning Objective:** The student will be able to list assistance available to victims of Family Violence.
2.5 Learning Objective: The student will be able to list sections of the Family Code that pertains to Protective Orders and describe the function of a Protective Order.

2.6 Learning Objective: The student will be able to list the Articles in Chapter 5 of the Texas Code of Criminal Procedures, Family Violence Prevention.

2.7 Learning Objective: The student will be able to describe the importance of reporting and documenting a Family Violence offense.

2.8 Learning Objective: The student will be able to identify the predominant aggressor.

2.9 Learning Objective: The student will be able to identify considerations for documenting any injuries by photograph or video of alleged family violence.

2.10 Learning Objective: The student will be able to identify considerations for documenting any statements in a written account of alleged family violence.

2.11 Learning Objective: The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Family Violence.

3.0 Functional Area: To provide the officer an understanding of sexual assault and those key changes within the different Texas Codes that may impact on their performance in the critical areas of sexual assault.

3.1 Learning Objective: The student will be able to define Sexual Assault in accordance with Chapter 22 of the Texas Penal Code.

3.2 Learning Objective: The student will be able to list national and state statistics surrounding Sexual Assault.

3.3 Learning Objective: The student will be able describe the Rape Trauma Syndrome (RTS) or Post Traumatic Stress Disorder (PTSD) as it is sometimes know as, and list some of the consequences that result from Sexual Assault.

3.4 Learning Objective: The student will be able to list information sought during the interview process of a Sexual Assault victim.

3.5 Learning Objective: The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Sexual Assault.
4.0 **Functional Area**: To provide the officer an understanding of sex offender characteristics and those key changes within the different Texas Codes that may impact on their performance in the critical areas of sex offenders.

4.1 **Learning Objective**: The student will be able to define the term Sex Offender.

4.2 **Learning Objective**: The student will be able to list and define national and state statistic surrounding Sex Offenders.

4.3 **Learning Objective**: The student will be able to describe the process for sex offender registration in Texas as outline in Chapter 62 of the Code of Criminal Procedure.

4.4 **Learning Objective**: The student will be able to list and describe the three different levels of sex offender classification.

4.5 **Learning Objective**: The student will be able to list and describe the two categories of sexual dysfunctions.

4.6 **Learning Objective**: The student will be able to describe some of the characteristic behavior of a sex offender.

4.7 **Learning Objective**: The student will be able to list information needed when interviewing sexual assault victims.

4.8 **Learning Objective**: The student will be able to describe the difference between an offense that is sexually sadistic or that is a lust murder.

4.9 **Learning Objective**: The student will be able to describe psychological profiling.

4.10 **Learning Objective**: The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Sex Offenders.
1.0 **Functional Area:** To provide the officer an understanding of child abuse and those key changes within the different Texas Codes that may impact on their performance in the critical areas of child abuse and neglect.

1.1 **Learning Objective:** The student will be able to define Child Abuse & Neglect in accordance with Chapter 261 of the Texas Family Code. *(Review)*

A. Child Abuse defined:

1. Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

2. Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

3. Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;

4. Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

5. Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

6. Failure to make a reasonable effort to prevent sexual conduct harmful to a child;

7. Compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code;

8. Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
9. The current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

10. Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code; or

11. Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code.

B. Child Neglect defined:

1. The leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

2. Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

3. Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

4. Failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

5. Placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

6. Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or

7. The failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.
8. "Person responsible for a child’s care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including a parent, guardian, managing or possessory conservator, or foster parent of the child; a member of the child's family or household as defined by Chapter 71; a person with whom the child's parent cohabits; school personnel or a volunteer at the child's school; or personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides.

9. "Born addicted to alcohol or a controlled substance" means a child who is born to a mother who during the pregnancy used a controlled substance, as defined by Chapter 481, Health and Safety Code, other than a controlled substance legally obtained by prescription, or alcohol; and who, after birth as a result of the mother's use of the controlled substance or alcohol experiences observable withdrawal from the alcohol or controlled substance; exhibits observable or harmful effects in the child's physical appearance or functioning; or exhibits the demonstrable presence of alcohol or a controlled substance in the child's bodily fluids.

1.2 **Learning Objective:** The student will be able to list national and state statistics surrounding Child Abuse and Neglect.

A. National Statistics:

1. April is National Child Abuse Prevention month.

2. During FY 2005, an estimated 899,000 children in the 50 States were abused.

3. It is reported that more than 2,000 children in the U.S. die of child abuse and neglect each year, and the actual number of abuse and neglect deaths is estimated to be much higher than that reported by vital statistics data.

4. The National Child Abuse and Neglect Data System (NCANDS) reported an estimated 1,490 child fatalities in 2004.

5. National statistics show that children under six years of age account for 86% of all maltreatment deaths and infants account for 43% of these deaths.

6. Homicide is the second leading cause of death among all 15 – 24 year olds in the U.S.

7. Homicide is the third leading cause of death among all 5 – 14 year olds in the U.S.
8. Fathers and mothers’ boyfriends are most often the perpetrators in child abuse deaths.

9. Mothers are more often at fault in the neglect fatalities.

10. Fatal abuse is interrelated with poverty, domestic violence and substance abuse.

11. Deaths attributed to neglect are rising. In 2004, over 1/3 of child maltreatment fatalities were associated with neglect alone.

B. State Statistics:

1. In FY 2006, there were approximately 275,539 alleged victims of child abuse and/or neglect, in which 97,995 were confirmed investigations. 17,537 of these children were removed from their environment.

2. In 2006, there were 227 deaths of children due to child abuse and neglect.

1.3 Learning Objective: The student will be able to list and describe theories about the causes of Child Abuse and Neglect

A. Psychoanalytic

1. Abusive behavior of the parent is determined by subconscious drives and conflicts.

2. As a child, the abuser may have suffered rejection and lack of nurturing; the parent passes on the same treatment by failing to nurture their own children, setting unrealistic expectations for children, and even role reversal where the abusive parent seeks care and nurturing from the child to fulfill the parent’s unmet needs.

B. Environmental

1. State child welfare records indicate that substance abuse is one of the top two problems exhibited by families in 81% of the reported cases.

2. Social and environmental problems and crisis cause stress and frustration in the abuser.

3. Socialization of abuser determines the response to stress (the abusers learn behavior on how to handle stress.

C. Cognitive Development

1. There is a lack of understanding of appropriate parent/child roles as the abuser has self-centered attitudes.

2. Abuse occurs from the lack of information and skills as a result of the low level of emotional and intellectual development of the abuser.

Abuse is more likely a combination of all of the above explanations
1.4 **Learning Objective:** The student will be able to list methods of reporting and documenting Child Abuse and Neglect by photographs.

A. Contact the local prosecutor’s office in order to determine what specific type of information is required and **always follow departmental policy**.

B. Reporting
   1. Correct title of offense
   2. Child is always the complainant
   3. Detailed scene summary
   4. Detailed injury summary
   5. Demeanor of complaint, witness and suspect(s)
   6. List all children in the home
   7. Who had care and control of complainant
   8. Disposition of complainant and other children in the home
   9. Dates of birth of all children in the home
   10. Note outcry witness in report

C. Photographs
   1. Try to have another officer present when taking pictures
   2. Have only one person in the picture
   3. White wall background
   4. Include clothing in all photos
   5. Take a facial picture to identify victim (with clothing in picture)
   6. Don’t take complainants clothes off unless necessary
   7. Have child raise arms on malnutrition investigation
   8. Identify pictures of injuries in report
   9. If no injuries are observed, list in report
   10. Take photos to the juvenile section with the report if the photos are not digital.

**Note:** Photographs should include a way for the viewer to gauge dimensions of injury. Have a tape measure or some other method to indicate size of bruises and other injuries (coins work well – especially useful when describing “dime-size”, etc. bruises, abrasions) included in photograph. It is also useful to have measurement when alleged perpetrator states child received massive injuries from a fall from the bed, table, couch, etc. Measurement of height where dangerous items are stored is helpful—guns, meth manufacturing chemical, dope stash, etc. – to gauge accessibility to child.
D. Interviewing

1. Position self at or below eye level of the child (less intimidating if in uniform).

2. Start interview with non-essential questions (puts child at ease and builds rapport) - name, age, grade, like and dislikes at school, favorite school subjects, hobbies, etc.

3. Ease into the questions about the abuse, let the child use their own terms. The interviewer should use the child’s terms, but be very clear as to what the terms refer to.

4. When essential questions have been answered, ask a few more non-essential questions then thank the child for their time and talking with the interviewer.

1.5 Learning Objective: The student will be able to describe when a joint investigation with Child Protective Services is required, and identify requirements for protocols between law enforcement and Child Protective Services.

A. Overview:

1. CPS and law enforcement are required to conduct some child abuse allegations jointly, per the Code of Criminal Procedure and the Family Code. Although this has been the law for several years many in law enforcement are unaware of it. Improving joint investigations between CPS and law enforcement is an important focus of CPS, so much so that CPS currently has positions whose primary function is to improve the way CPS investigators work with law enforcement and to increase and improve joint investigations around the state.

2. In addition to the CCP mandate to conduct joint investigations, CPS and law enforcement are also mandated by the family code to develop guidelines and protocols for working joint investigations.

Note: See Appendix II for the Joint Investigation Guideline and Risk Assessment created for CPS and law enforcement to use in developing local protocols. The Joint Investigation Guidelines is a CPS document but it was developed from a workgroup consisting of CPS, law enforcement and Children’s Advocacy Centers of Texas.
B. CCP Art. 2.27 - Investigation Reports Alleging Abuse

1. Report received with highest priority assigned by CPS.
2. Peace officers from appropriate jurisdiction shall conduct joint investigation with CPS.
3. Time frame to initiate joint investigation is as soon as possible but no longer than 24 hours.
4. Officers shall accompany the department investigator in initially responding to the report.

C. FC §261.301- Investigation of Report

1. Clarify the respective roles of the department and law enforcement agency in conducting the investigation.
2. Require that mutual child protective services and law enforcement training and agreements be implemented by both entities to ensure the integrity and best outcomes of joint investigations;
3. Incorporate the use of forensic methods in determining the occurrence of child abuse or neglect.

D. FC §261.3011(b) - Joint Investigation Guidelines and Training

1. CPS shall collaborate with local law enforcement for joint training.
2. Training must include information on interviewing techniques, evidence gathering, and testifying in court for criminal investigations, as well as instruction on rights provided by the Fourth Amendment to the United States Constitution.

1.6 Learning Objective: The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Child Abuse and Neglect (See Appendix I).

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2.0 **Functional Area:** To provide the officer an understanding of family violence and those key changes within the different Texas Codes that may impact on their performance in the critical areas of family violence.

2.1 **Learning Objective:** The student will be able to define Family Violence in accordance with Section 71.004 of the Texas Family Code. *(Review)*

A. Family Violence defined:

1. Family violence means an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault, or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself. This includes dating violence.

2. Senate Bill 68 of the 77th Legislature amended the Family Code to include “Dating Violence” as part of the definition of Family Violence. A “Dating Relationship” means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature.

2.2 **Learning Objective:** The student will be able to list national and state statistics surrounding Family Violence. (See Appendix II-B)

A. National Statistics:

1. October is National Domestic Violence Awareness Month

2. Estimates range from 960,000 incidents of violence against a current or former spouse, boyfriend, or girlfriend per year to three million women who are physically abused by their husband or boyfriend per year.

3. Nearly one-third of American women (31 percent) report being physically or sexually abused by a husband or boyfriend at some point in their lives,

4. Nearly 25 percent of American women report being raped and/or physically assaulted by a current or former spouse, cohabiting partner, or date at some time in their lifetime,

5. Thirty percent of Americans say they know a woman who has been physically abused by her husband or boyfriend in the past year.

6. In the year 2001, more than half a million American women (588,490 women) were victims of nonfatal violence committed by an intimate partner.
7. Intimate partner violence is primarily a crime against women. In 2001, women accounted for 85 percent of the victims of intimate partner violence (total of 588,490) and men accounted for approximately 15 percent of the victims (total of 103,220).  
8. While women are less likely than men to be victims of violent crimes overall, women are five to eight times more likely than men to be victimized by an intimate partner.  
10. Women are seven to 14 times more likely than men to report suffering severe physical assaults from an intimate partner.  
11. The health-related costs of rape, physical assault, stalking, and homicide by intimate partners exceed five point eight billion dollars each year (CDC study).

B. Domestic Homicides:

1. On average, more than three women are murdered by their husbands or boyfriends in this country every day. In 2000, 1,247 women were killed by an intimate partner. The same year, 440 men were killed by an intimate partner.  
2. Women are much more likely than men to be killed by an intimate partner. In 2000, intimate partner homicides accounted for 33.5 percent of the murders of women and less than four percent of the murders of men.  
3. About half of all female victims of intimate violence report an injury of some type, and about 20 percent of them seek medical assistance.  
4. Thirty-seven percent of women who sought treatment in emergency rooms for violence-related injuries in 1994 were injured by a current or former spouse, boyfriend or girlfriend.

C. Domestic Violence and Youth:

1. Approximately one in five female high school students reports being physically and/or sexually abused by a dating partner.  
2. Eight percent of high school age girls said "yes" when asked if "a boyfriend or date has ever forced sex against your will."  
3. Forty percent of girls age 14 to 17 reported knowing someone their age that had been hit or beaten by a boyfriend.
4. During the 1996-1997 school year there were an estimated 4,000 incidents of rape or other types of sexual assault in public schools across the country. 22

D. Domestic Violence and Children:
1. In a national survey of more than 6,000 American families, 50 percent of the men who frequently assaulted their wives also frequently abused their children. 23
2. Slightly more than half of female victims of intimate violence live in households with children under age twelve. 24
3. Studies suggest that between three point three and ten million children witness some form of domestic violence annually. 25

E. State Statistics: (Instructor should incorporate county and local statistics)
1. There were 186,868 family violence incidents reported to the Texas Department of Public Safety in 2006 which is a decline from 2005, in which 187,811 were reported.
2. During the course of responding to family violence calls in Texas, 474 Texas law officers were assaulted in 2006.
3. 74% of all Texans have either themselves, a family member and/or a friend experienced some form of domestic violence
4. 47% of all Texans report having personally experienced at least one form of domestic violence, severe (physical or sexual), verbal and/or forced isolation from friends and family at some point in their lifetime.
5. 31% of all Texans report that they have been severely abused (physically or sexually abused) at some point in their lifetime. Women report severe abuse at a higher rate than men.

2.3 Learning Objective: The student will be able to list and describe some of the types of abuse and characteristics of batterers.

A. There is no single, definitive "cause" of family violence, and anyone regardless of gender, age, race, ethnicity, education, cultural identity, socioeconomic status, occupation, religion, sexual orientation, physical or mental abilities or personality - may be vulnerable to being abused.

B. Family Violence is complex, and there are many factors that contribute to a person’s choice to use violence.

C. Family Violence is used for one purpose, to gain, exert and maintain power and control over the victim.
D. Three types of abuse:

1. Emotional Abuse includes:
   a. Making victims think they’re crazy, telling victims the abuse didn’t happen
   b. Controlling what victims do, who they talk to, what they read & where they go
   c. Isolating victims from their family and friends
   d. Threatening to take the children away
   e. Threatening to commit suicide
   f. Treating the victim like a servant
   g. Calling the victim names, embarrassing her
   h. Making the victim afraid by using looks, actions or gestures
   i. Destroying the victim’s property
   j. Abusing/killing the pets
   l. Preventing the victim from getting or keeping a job
   m. Making the victim ask for money/giving her an allowance

2. Sexual Abuse includes:
   a. Rape
   b. Refusal to use contraceptive
   c. Forcing partner to participate in unwanted acts
   d. Using sexual acts as “punishment”
   e. Knowingly transmitting STDs
   f. Forcing sex while healing from childbirth

3. Physical Abuse includes:
   a. Punching
   b. Hitting
   c. Slap
   d. Shoving
   e. Strangulation
   f. Kicking
E. If the Victim is an Immigrant:

1. Immigrants experiencing family violence often have additional barriers to leaving the abusive relationship. This is especially true if they are undocumented. The batterer often tells the victim, “if you leave I will call Immigration or the police and have you deported.” This threat, combined with language, cultural, religious and economic barriers makes it unlikely that immigrant victims of family violence will approach law enforcement for help. Immigrant women may also fear and distrust law enforcement because the police in their country of origin were abusive and corrupt. The combination of all of these factors means that if an immigrant victim of family violence does reach out to law enforcement, the situation is most likely severe and requires an expedited and informed response.

2. The Violence Against Women Act (VAWA) initially passed in 1994 and reauthorized in 2000 and 2005, includes provisions specifically created to ensure that battered immigrants could report abuse without the fear of being deported. Some remedies include the self petitioning process, which allows an immigrant victim who has been “battered or subject to extreme cruelty” by her US citizen or lawful permanent resident (LPR) spouse to obtain immigration status without having to rely on the abuser. In addition, U visas and T visas were created to enable immigrant victims of certain violent crimes and trafficking to participate in investigations and/or prosecutions of crimes with protection from deportation.

F. General Characteristics of Batterers:

1. This is not a guaranteed checklist for identifying every abusive man. Nor is this a list that mentions every trait of every man who batters. But, it does represent the experiences of thousands of domestic violence survivors and others.

   a. Can be found in all socio-economic groups, all occupational categories, all cultural groups, and all neighborhoods.

   b. Are often liked and respected in their communities yet can be a tyrant and abuser behind closed doors.

   c. May appear to be “model” husbands, thus making it hard for outsiders to believe the violence is “real”.

   d. Usually contain their violence and abusive behavior to their home life; however, there is a certain number (about 20%) that can be violent and aggressive in a variety of other situations.

   e. May have learned from an abusive family background that violence is an acceptable way to resolve conflicts.
f. Have often been victimized themselves as children or witnessed their mothers being abused and mistreated.

g. Frequently are unable to express a range of emotions, misidentifying many of their feelings as anger.

h. Often have difficulty being in intimate relationships and therefore prefer to talk about or participate in sports, work, cars, fishing, etc.

i. Have rigid ideas about roles in a marriage or relationship. For instance, he sees his role as being the one in charge, superior, dominant while the woman’s role is subordinate, care-giving, and home-centered.

j. Easily become jealous (insecurity is always the root of jealousy).

k. Want their partner to account for their time, money, and whereabouts.

l. Assume that they are entitled to certain rights and privileges within the relationship such as being head of the household (King of the castle), sex on demand or the right to make all the important decisions.

m. Use psychological defense mechanisms such as denying (“She’s just a crybaby, I didn’t hurt her”), blaming (“I’ve been under a lot of stress”), and minimizing (“She bruises easily”).

2.4 **Learning Objective**: The student will be able to list assistance available to victims of Family Violence.

1. **Utility Deposit Waivers**:
   - Law enforcement personnel may sign a certification letter to waive the deposit for new electric, telephone and gas service, allowing a victim to move more easily. ([Appendix II-B](#))

2. **Crime Victim's Compensation (CVC)**:
   - CVC provides a one-time reimbursement for victims of family violence for moving expenses.

3. **Lease termination without penalty (Property Code §92.016)**
   - Victims of family violence may terminate their leases early and without penalty if they have a final protective order and the violence was committed by an occupant or co-tenant.

4. **U Visas**:
   - Law Enforcement may certify that an immigrant victim of family violence qualifies for a U Visa. The victim must possess information about the crime and may be helpful to the investigation and/or prosecution. ([Appendix II-B](#))
2.5 **Learning Objective:** The student will be able to list sections of the Family Code and the Code of Criminal Procedures that pertains to Protective Orders and describe the function of the different Protective Orders *(Instructor should contact the local Prosecutor’s Office in order to determine what specific types of information are required)*

A. There are three types of protective orders in Texas:
   1. Magistrate’s Order for Emergency Protection (CCP Art. 17.292)
   2. Temporary Ex-Parte Protective Order (Family Code Chapter 83)
   3. Final Protective Order (Family Code Chapter 85)

B. Magistrate’s Order for Emergency Protection (also known as an Emergency Protective Order)
   1. Who qualifies for a Magistrate’s Order for Emergency Protection?
      a. A victim of family violence assault Class A or higher
      b. A victim of sexual assault or aggravated sexual assault (effective 9/1/07)
      c. A victim of stalking
   2. Who may request a Magistrate’s Order for Emergency Protection?
      a. A magistrate on his/her own motion
      b. The victim of the offense
      c. The guardian of the victim
      d. A peace officer
      e. An attorney representing the state

C. A request from the victim for an Emergency Protective Order is not necessary. The arresting officer or the magistrate may request the EPO on behalf of the victim.

D. An Emergency Protective order *may* be issued in all qualifying offenses except an Emergency Protective Order *shall* be issued for offenses involving serious bodily injury or the use or exhibition of a deadly weapon.

E. A Magistrate’s Order for Emergency Protection may prohibit the arrested party from:
   1. Communicating directly with a member of the family or household or with the person protected under this order in a threatening or harassing manner.
   2. Communicating a threat through any person to the member of the family or household or with the person protected under this order.
3. Going within a certain number of feet of the residence of a member of the family or household or the person protected under this order. *(The number of feet is in accordance with local policy and/or local judicial discretion).*

4. Going within a certain number of feet of the place of employment or business of a member of the family or household or the person protected under this order. *(The number of feet is in accordance with local policy and/or local judicial discretion).*

5. Going within a certain number of feet of the residence where a child protected under this order resides *(The number of feet is in accordance with local policy and/or local judicial discretion).*

6. Going within a certain number of feet of the school or child care facility a child protected under this order is attending. *(The number of feet is in accordance with local policy and/or local judicial discretion).*

7. Possessing a firearm.

8. It is ordered that the license to carry a concealed handgun of the respondent is suspended for the duration of the order.

9. This order shall be enforce no fewer than 31 days or no longer than 61 days except in the case of use or exhibition of a deadly weapon, then the order shall be enforce no fewer than 61 days or no longer than 91 days.

10. A violation of a Magistrate's Order for Emergency Protection is a Class A offense.

F. Temporary Ex-Parte Protective Order

1. Issued when an application for a Protective Order is filed

2. Not valid for more than 20 days but may be extended by the court

   a. During this time the respondent is notified that an application has been filed with the court and of the time of the hearing for the final protective order.

   b. May exclude respondent from residence

   c. The respondent is directed to refrain from committing family violence (see EPO)

   d. A violation of a temporary ex-parte protective order is a Class A offense if the order has already been served beginning January 1, 2008.

   e. Until January 1, 2008, a violation of a temporary ex-parte protective order is a civil offense except if the person refuses to leave a residence if so ordered.
G. Protective Order

1. Who Qualifies?
   a. Victims of Family Violence
   b. Victims of Sexual Assault CCP Chapter 7A
   c. Victims of Hate Crimes CCP Art. 6.08

F. Requirements of Order Applying to Person Who Committed Family Violence

1. Complete a battering intervention and prevention program, and
2. The court may prohibit the person found to have committed family violence from:
   a. Communicating directly with a member of the family or household or with the person protected under this order in a threatening or harassing manner.
   b. Communicating a threat through any person to the member of the family or household or with the person protected under this order.
   c. Going within a certain number of feet of the residence of a member of the family or household or the person protected under this order. *(The number of feet is in accordance with local policy and/or local judicial discretion).*
   d. Going within a certain number of feet of the place of employment or business of a member of the family or household or the person protected under this order. *(The number of feet is in accordance with local policy and/or local judicial discretion).*
   e. Going within a certain number of feet of the residence where a child protected under this order resides *(The number of feet is in accordance with local policy and/or local judicial discretion).*
   f. Going within a certain number of feet of the school or child care facility a child protected under this order is attending. *(The number of feet is in accordance with local policy and/or local judicial discretion).*
   g. It is ordered that the license to carry a concealed handgun of the respondent is suspended for the duration of the order.
   h. The respondent is prohibited from possessing a firearm, unless the person is a peace officer, as defined by Section 1.07, Penal Code, actively engaged in employment as a sworn, full-time paid employee of a state agency or political subdivision.
i. The court shall specifically describe each prohibited location and the minimum distances from the location, if any, that the party must maintain. This subsection does not apply to an order in which Section 85.007 Confidentiality of Certain Information applies. On request, the court may exclude from a protective order the address and telephone number of the protected person’s residence, place of employment, child care facility and/or school.

3. A Protective Order shall be enforce for the period stated in the order, not to exceed two years.

4. A Violation of a Protective Order is a Class A offense unless the defendant has been convicted two or more times for violating a protective order or violated the order by committing an assault or stalking then it is a 3rd degree felony. (PC §25.07(g)).

J. Court Order for Law Enforcement Assistance Under Final Order (FC§86.004)

1. If requested by the applicant the magistrate shall order law enforcement to:
   a. Accompany applicant to the residence covered by the order.
   b. Inform the respondent that the court has ordered him excluded from the residence.
   c. Protect the applicant while applicant takes possession of the residence and the respondent takes possession of the respondent’s necessary personal property; and
   d. If the respondent refuses to vacate the residence:
      1. Remove the respondent from the residence; and
      2. Arrest the respondent for violating the court order

K. Violation of Protective Order or Magistrate’s Order:

1. Reconciliatory actions or agreements made by persons affected by an order do not affect the validity of the order or the duty of a peace officer to enforce this section. (PC §25.07(d))

2. A peace officer investigating conduct that may constitute an offense under this section for a violation of an order may not arrest a person protected by that order for a violation of that order. (PC §25.07(e))

3. A peace officer shall arrest without warrant a person who has violated a protective order if the offense is committed in the presence of the officer. (CCP Art. 14.03 (b)).
2.6 **Learning Objective:** The student will be able to list the Articles in Chapter 5 of the Texas Code of Criminal Procedures, Family Violence Prevention.

1. **Art. 5.01 LEGISLATIVE STATEMENT**
   
a. Family violence is a serious danger and threat to society and its members. Victims of family violence are entitled to the maximum protection from harm or abuse or the threat of harm or abuse as is permitted by law.

   b. In any law enforcement, prosecutorial, or judicial response to allegations of family violence, the responding law enforcement or judicial officers shall protect the victim, without regard to the relationship between the alleged offender and victim.

2. **Art. 5.03 FAMILY OR HOUSEHOLD RELATIONSHIP DOES NOT CREATE AN EXCEPTION TO OFFICIAL DUTIES.**
   
a. A peace officer's or a magistrate's duty to prevent the commission of criminal offenses, including acts of family violence, are not waived or except because of a family or household relationship between an alleged violator and victim.

3. **Art. 5.04 DUTIES OF PEACE OFFICERS:**
   
a. The primary duties of law enforcement that responds to a call that involves family violence is to protect any potential victim, enforce the law, enforce a protective order and make lawful arrests.

   b. A law enforcement officer who investigates a family violence call **shall** provide a written notice to any adult victim of family violence stating the victim’s legal rights, possible remedies and the number for the local family violence shelter or other community services. *(Appendix II-B “Notice to Adult Victims of Family Violence” English/Spanish)*

4. **Art. 5.045 STANDBY ASSISTANCE; LIABILITY:**
   
a. An officer may stay with a victim of family violence to protect the victim and allow the victim to take personal property and/or property of a child.

   b. An officer is not civilly liable for an act or omission of the officer that arises in connection with the assistance or civilly or criminally liable for the wrongful appropriation of any personal property by the victim.
5. Art. 5.05 REPORTS & RECORDS:
   a. An officer who investigates a family violence call shall make a written report.

2.7 Learning Objective: The student will be able to describe the importance of reporting and documenting a Family Violence offense.

   A. Law enforcement documentation of all actual injuries and statements made by the victim and witness can significantly improve prosecution in family violence cases.

   B. Things to consider including in report:
      1. Physical and emotional state of the victim, the suspect and children if present
      2. Condition of the room—Is anything broken? Is the phone ripped out of the wall?
      3. Type of abuse
      4. Any visible injuries
      5. Medical treatment required
      6. Victim’s relationship with abuser
      7. Length of relationship
      8. Has the relationship ended?
      9. Was there a protective order? If so, what type of order?
     10. Name of the suspect
     11. Were there weapons present?
     12. Specific location of the incident—Is this where they both live? Have they lived together in the past?
     13. Assess for strangulation: scratches on neck, spots on face and/or neck, blood-red eyes, rope or cord burns, neck swelling or stiffness, raspy breath, complaints of sore throat, difficulty speaking

2.8 Learning Objective: The student will be able to identify the predominant aggressor.

   A. Determining the predominant aggressor starts with a thorough investigation. The following are issues to investigate prior to making this determination:
      1. Who poses the most danger to the other?
      2. Is one party in fear of the other?
3. Was the amount of force used appropriate and reasonable? For example, did one party react to a slap by beating the other party?

4. The relative severity of the injuries inflicted on each person.

5. Is one party physically larger and stronger than the other?

6. Is there a history of violence by one of the parties against the other? Against other people?

7. Is one party usually the aggressor?

8. Who is at most risk for future harm or injury?

9. Did any injuries appear to be the result of self-defense?

10. Is the party with less serious injuries demanding that the other party be arrested too?

B. Above all LISTEN to the stories and ask yourself:

1. Do the stories make sense?

2. Can anyone else (children, witnesses, 911 tapes) corroborate either story?

3. Is one person overly helpful and apologetic?

4. Is the person you believe to be the victim taking visual cues from another person about what to say?

C. Self-Defense

1. A person is justified in using force against another when and to the degree he reasonably believes the force is immediately necessary to protect himself against the other’s use or attempted use of force.

2. By law, self-defense includes actions that are reasonable and necessary to protect oneself. This includes preemptive strikes.

3. Typical indications of self-defense include injuries left by the victim on the body of the attackers include:
   a. scratches on the back of the attacker’s arms, wrists/or back
   b. scratches to the attacker’s face or neck
   c. bite marks on the inside of the attacker’s arms, chest, or neck.
   d. indications of the attacker’s hair being pulled
   e. groin or kicking injuries
   f. injuries caused by hard objects or weapons

(adapted from Texas Municipal Police Association’s Sexual Assault Family Violence Investigator Course (SAFVIC))
4. Defensive injuries on the victim typically appear as:
   a. bruises on the back of arms, legs, or hands, and/or
   b. bruises on the buttocks, back of legs and back because the victim will often curl into a fetal position to escape injury.

5. Texas law does not require the arrest of both parties simply because they both have injuries resulting from each other.

6. If a dual arrest is made, the officer should document in the report why the predominant aggressor could not be identified.

2.9 **Learning Objective:** The student will be able to identify considerations for documenting any injuries by photograph or video of alleged family violence.

A. Reason for photographing or videoing injuries:
   1. May be able to replace reluctant witness for testimony
   2. Can enhance the written report of family violence
   3. Presents the victims condition when officers respond to the scene
   4. Can aid in later investigation of the case or help establish facts which might be subject to dispute

B. Consideration when taking photographs:
   1. Try to have another officer present
   2. Have one person per picture
   3. Take a facial picture to identify victim
   4. Full body picture of the victim
   5. Unless absolutely necessary, don’t take victim’s clothes off
   6. Full body picture of the suspect (if present)

C. Department should seek advice from the local Prosecutor’s office to determine requirements for photographing and videoing family violence injuries.

2.10 **Learning Objective:** The student will be able to identify considerations for documenting any statements in a written account of alleged family violence.

A. Consideration when taking written statements:
   1. Include excited utterances
   2. Include medical personnel (emergency, physician)
   3. Include statements against interest by the suspects or if the suspect says or does anything that might cause the victim to be afraid
4. Frequency and severity of prior incidents of physical abuse by the batterer
5. Number of prior calls for assistance

B. U.S. Supreme Court Decision clarifying types of statements:

1. Recently the U.S. Supreme Court clarified what evidence is admissible in cases where a victim or witness may refuse to or cannot appear in court. The two kinds of evidence are:
   a. **Non-testimonial**: These are statements made to the police for the primary purpose of enabling the police to address an on-going emergency (Ex. 911 calls).
   b. **Testimonial**: These statements are made when there is no on-going emergency and the primary purpose of questioning is to establish or prove events relevant to future legal proceedings.
   c. Non-testimonial statements are admissible in most circumstances. Testimonial statements are subject to further legal tests.
   d. **Suggested Best Practice**: Law enforcement should continue to gather evidence as though the case will go to court, making sure to document:
      1. Any statements that the victim makes that indicate a “cry for help” or that the violence is on-going or that the victim is still afraid (as opposed to recounting what has already occurred)
      2. Any statement by the suspect that, directly or indirectly instructs the victim not to speak to the officers

C. Department should seek advice from the local Prosecutor’s office to determine requirements for photographing, videoing and written statements.

2.11 **Learning Objective**: The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Family Violence (See Appendix 1).

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Sexual Assault
Unit Three

3.0 **Functional Area:** To provide the officer an understanding of sexual assault and those key changes within the different Texas Codes that may impact on their performance in the critical areas of sexual assault.

3.1 **Learning Objective:** The student will be able to define Sexual Assault in accordance with Chapter 22 of the Texas Penal Code. *(Review)*

A. Sexual Assault defined:

   1. A person commits an offense if the person intentionally or knowingly causes the penetration of the anus or female sexual organ of another person by any means, without that person's consent;

   2. Causes the penetration of the mouth of another person by the sexual organ of the actor, without that person's consent; or

   3. 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

   4. Intentionally or knowingly causes the penetration of the anus or female sexual organ of a child by any means;

   5. Causes the penetration of the mouth of a child by the sexual organ of the actor;

   6. Causes the sexual organ of a child to contact or penetrate the mouth, anus, or sexual organ of another person, including the actor;

   7. Causes the anus of a child to contact the mouth, anus, or sexual organ of another person, including the actor; or

   8. Causes the mouth of a child to contact the anus or sexual organ of another person, including the actor.

   9. A sexual assault under Subsection (a)(1) is without the consent of the other person if the actor compels the other person to submit or participate by the use of physical force or violence; 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; the other person has not consented and the actor knows the other person is unconscious or physically unable to resist; the actor knows that as a result of a 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;
The other person has not consented and the actor knows the other person is unaware that the sexual assault is occurring; 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; 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; the actor is a public servant who coerces the other person to submit or participate; 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; or 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.

3.2 **Learning Objective:** The student will be able to list national and state statistics surrounding Sexual Assault.

A. National Statistics:

1. Every two and a half minutes, someone is sexually assaulted.
2. One in six women is victims of sexual assault, and one in 33 men.
3. Estimated that about 44% of rape victims are under age 18, and 80% are under age 30.
4. In 2005, there were 191,670 victims of reported rape, attempted rape or sexual assaults according to the [2005 National Crime Victimization Survey](#).
5. Of the average annual 200,780 victims in 2004-2005, about 64,080 were victims of completed rape, 51,500 were victims of attempted rape, and 85,210 were victims of sexual assault were reported.
6. Since 1993, rape/sexual assault have fallen by over 69%.

B. State Statistics: *(Instructor should incorporate county and local statistics)*

1. Nearly 2 million adult Texans, or 12.6% of the population, have been sexually assaulted.
2. A study on sexual assault in Texas found that 1 in 5 women and 1 in 20 men had been sexually assaulted at some point in their life.
3. More than half of all sexual assaults are committed against children under age 18.
4. An estimated 82% of rapes go unreported.
5. In 2005 there were 8,505 reported cases of sexual assault in Texas.
3.3 **Learning Objective:** The student will be able to describe the Post Traumatic Stress Disorder (PTSD) or Post Traumatic Stress Syndrome (PTSS).

A. PTSD defined:
   1. Is a recognized psychological description of the state of mind that may follows sexual assault victimization.
   2. Occurs in three phases:
      a. Acute Distress – characterized by an increase in the level of tension and increase feelings of being upset.
      b. Regression or Outward Adjustment - characterized by rationalization of the rape. The victim appears to have "forgotten" the rape and to have resolved the issues.
      c. Reorganization or Integration - begins when the victim develops a sense of depression and feels the need to talk about his/her feelings and the situation.
   3. Can produce inconsistencies in details at different stages of the investigation and behaviors that are easily misinterpreted.
      a. The “atomic bomb” of neuro chemicals that the body releases during the trauma affects forever the way brain recalls memory. Victims can not and does not recall in chronological, logical order. Nor do the victim recall the event in language– the memory is stored as sensory perceptions, and can be accessed– by asking sensory/tactile questions.

B. Sexual violence can have very harmful and lasting physical, psychological and social consequences for victims.

C. Physical Consequences:
   1. Women who experience both sexual and physical abuse are significantly more likely to contact sexually transmitted diseases.
   2. Over 32,000 pregnancies result from rape every year.
   3. Long-term consequences can include:
      a. Chronic pelvic pain
      b. Gastrointestinal disorders
      c. Gynecological and pregnancy complications
      d. Migraines and other frequent headaches
      e. Back pain
      f. Facial pain
      g. Disability preventing work. These are somatic symptoms that can be very physically debilitating
C. Psychological Consequences can include:
   1. Shock
   2. Denial
   3. Fear
   4. Confusion
   5. Anxiety
   6. Withdrawal
   7. Guilt
   8. Nervousness
   9. Distrust of others
  10. Symptoms of Post-traumatic stress disorder
      a. Emotional detachment
      b. Sleep disturbances
      c. Flashbacks or mental replay of assault
  11. Chronic psychological consequences can include:
      a. Depression
      b. Attempted or completed suicide
      c. Alienation
      d. Post-traumatic stress disorder
      e. Unhealthy diet-related behaviors
         1. Fasting
         2. Vomiting
         3. Abusing diet pills
         4. Overeating

D. Social Consequences can include:
   1. Strained relationships with the victim's family, friends, and intimate partners
   2. Less emotional support from friends and family
   3. Less frequent contact with friends and relatives
   4. Lower likelihood of marriage
3.4 **Learning Objective:** The student will be able to list information sought during the interview process of a Sexual Assault victim.

A. Remember:
   1. The interview process produces more anxiety for the victim, at a time when they are already anxious, and they must relive the assault each time they describe it.
   2. Most victims are not familiar with police procedures and terminology.
   3. Normal defense mechanism that protects the victim emotionally will interfere with the ability and desire to recall details.
   4. Victim reactions to the assault and interview vary, and fluctuate. There is no correct way to behave to indicate creditability.

B. Interview process:
   1. Description of the Assault:
      a. Date, time and location
      b. Extent of injuries, including pain, and weapons used *(because most rapist are people the Victim already knows and trust there usually aren't any weapons involved and this just perpetrates the myth that the rapist is the boogie man hiding in the bushes)*
      c. Activity of the victim preceding the assault
      d. Nature of force used and the victim’s effort to resist *(again, most Victims think they are going to die and do not resist because they are ‘frozen’ physically, emotionally and psychologically, and this goes back to the victim blaming stance that the victim should have done something to resist. Rape is lack of consent. Not saying no clearly is not a defense. If there was not audible YES, then it is rape.)*
         1. Submission is not consent
         2. Fear can produce immediate submission (like a threat, a raised eyebrow, a weapon, physical pain)
         3. Amount of resistance expected will depend on the circumstance. Remember that over 90% of all rape victims are raped by someone they KNOW. This means the "perp" usually knows what buttons to push.
      e. Nature and penetration and ejaculation
   2. Description of any Suspects:
      a. Details on approach and attack method used; weapon/devices used
b. Clothing worn
c. Behaviors, mannerisms, words and phrases used, again this is where going for sensory perceptions can be very useful
d. Description of anything taken
e. Method of transportation
f. Time and direction when leaving scene

3. Stranger assaults:
   a. Physical characteristics, tone of voice, accent
   b. Smells of body odor, cologne, oil, smoke, anything that can be remembered
   c. Any previous encounter or interaction

4. For Date/Acquaintance assaults:
   a. Full name of suspect, place of residence, place of employment
   b. Nature of acquaintance, how they met, how long they’ve known each other
   c. Names of suspect’s friends, associates, family members
   d. Previous sexual activity with suspect (relevant only for informational purposes; not relevant in determining whether to proceed with a serious police investigation into victim’s allegations)
   e. Know suspect activities and hang-outs

**Caveat** - All this is necessary for an investigation, however from the victim’s point of view this often sounds and feels like victim blaming. If an Advocate is present the advocate may get up and scream at the officer conducting an interview, this is not acceptable in victim’s presence. What is important here is a collaboration and understanding between the investigator and the advocate.

5. Identity of witness - anyone the victim knows:
   a. Who saw the victim and suspect when they met
   b. Who saw the victim and suspect in a public area
   c. Who heard something during the assault?
   d. Who may be an “outcry” or character witness?

6. Steps for First Officer on Scene:
   a. Check for victim injuries, call EMS, or provide other medical attention as required
   b. Determine the nature of the crime and obtain suspect description
   c. Broadcast suspect information if crime just occurred
d. Secure the scene from further contamination or destruction.

e. Have dispatch notify support services for your jurisdiction, including investigator, crime lab (photo & fingerprint), and victim counselor.

f. Interview the victim and be as brief as possible.

1. Ask questions in a professional manner, let victim tell you what happened in own words.
   a. Careful here: excitable utterances aside, the victim may choose words that do not reflect what accurately happened due to shock and that someone they know and trust “did this” to them. This is not consensual sex – this is forced sex. Victims were made to do certain things with their body parts.

2. Caution the victim NOT to shower, bathe, douche, or drink.

3. Explain the importance of having a rape exam and to take a change of clothing.
   a. Caution: The victim may chose not to want to report or they get to the hospital and have to sit for hours waiting for a forensic exam and later refuse a SANE exam. Is there a process in place (Sexual Assault Response Team-SART) in place to help the victim during the waiting process?

4. Provide victim an explanation of what to expect in the investigation.
   a. The 3 needs of all Victims: to be safe, to know what comes next, and to get honest information so they can make informed choices

5. Reassure the victim they are NOT TO BLAME and you are there to help.

7. Steps for Seconds Officer on the Scene:
   a. Secure and protect the crime scene.
   b. Conduct search of the area for items such as washcloths, towels, clothing, tissue, or other items where the suspect may have left body fluids or hair.
   c. Collect items the victims had been wearing at the time of assault that they are not currently wearing including what the victim was laying on during the assault.
   d. Place each item of evidence in a separate paper bag. Write the contents on the outside of the bag and attach a property tag.
   e. Take measurements of the scene and draw a brief sketch.
   g. If the suspect is arrested within a short period of time, collect all of their clothing, including shoes and place in a marked paper bag.
8. Steps for Officer at the Hospital:

a. Authorize the rape exam if rape occurred within the last 72 hours (life span of sperm), and the victim is willing to cooperate. If victim is unwilling, or there are questions about credibility of the case, contact supervisor or follow department policy.

b. Collect clothing the victim wore to the hospital and place in a marked paper bag.

c. Collect contents of the rape exam (blood, hair, saliva and swabs). Make sure the rape exam kit is refrigerated as soon possible.

d. Secure all evidence at your department’s evidence collection point.

e. Write a detail reports ensuring all elements of the offense are included in the narrative. Document accurately the suspect’s words and/or acts, but paraphrase the victim’s words. Avoid personal opinion.

f. Document complete victim, witness and suspect information. Include addresses and phone numbers for home and employment, and when they can be reached. Make a note if the follow-up investigation needs to protect confidentiality of certain information.

3.5 **Learning Objective:** The student will be able to list and describe legislative updates passed during the 80th Legislative Session that are relevant to Sexual Assault (See Appendix 1).

<table>
<thead>
<tr>
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<th>Description</th>
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<td>Report Concerning Certain Assaultive or Terroristic Offenses</td>
</tr>
<tr>
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<td>Application for Protective Order</td>
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<td>CCP Art. 7A.03</td>
<td>Required Findings; Issuance of Protective Order</td>
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<td>Duration of Protective Order</td>
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<td>Testing for Aids and Certain other Diseases</td>
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<td>CCP Art. 37.07</td>
<td>Verdict Must be General Separate Hearing on Proper Punishment</td>
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<td>Testimony of Child who is Victim of Offense</td>
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<td>CCP Art. 42.12 Sec(3)(g)</td>
<td>Community Supervision; Limitation on Judge Ordered Community Service</td>
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<td>Community Supervision; Jury Recommended Community Service</td>
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<td>CCP Art 42.12 Sec (5)</td>
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<td>CCP Art. 56.02</td>
<td>Crime Victims’ Rights</td>
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<td>Address Confidentiality Program for Victims of Family Violence, Sexual Assault, or Stalking</td>
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<td>Confidentiality of Identifying Information of Sex Offense Victims</td>
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<tr>
<td>Code</td>
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<tr>
<td>CCP Art. 57B.01-05</td>
<td>Confidentiality of Identifying Information of Family Violence Victims</td>
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<td>Eligibility for Release on Parole Computation of Parole Eligibility Date</td>
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<td>HRC §61.098</td>
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<td>Miscellaneous Changes §841.085</td>
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<td>Continuous Sexual Abuse of Young Child or Children</td>
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<td>PC §21.12</td>
<td>Improper Relationship between Educator and Minor</td>
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<td>PC §22.021</td>
<td>Aggravated Sexual Assault</td>
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<td>PC §25.07</td>
<td>Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case</td>
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<td>Online Solicitation of a Minor</td>
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<tr>
<td>PC §39.04</td>
<td>Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody</td>
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Sex Offender
Unit Four

4.0 **Functional Area**: To provide the officer an understanding of sex offender characteristics and those key changes within the different Texas Codes that may impact on their performance in the critical areas concerning sex offenders.

4.1 **Learning Objective**: The student will be able to define Sex Offender.

A. Sex offender defined:
   - Persons convicted of crimes involving sex, including rape, molestation, sexual harassment and pornography production or distribution.

4.2 **Learning Objective**: The student will be able to list and define national and state statistic surrounding Sex Offenders.

A. National Statistics:
   1. As of April 2007, there were a reported 602,189 registered sex offenders in the United States.

B. State Statistics: *(Instructor should incorporate county and local statistics)*
   1. At the end of 2005, approximately 36,520 adult sex offenders were under state supervision, in which 24,220 were in prison for sex offenses, roughly 3,970 were on parole or mandatory supervision and at least 8,330 on probation (community supervision).
   2. As of April 2007, there were a reported 48,877 registered sex offenders in the State of Texas which has increased since 2005.

C. Jessica Lunsford Act: (HB 8)
   1. 25-99 year sentence, no parole for ‘super aggravated’ sexual assaults
   2. A sexual assault is ‘super aggravated’ if:
      a. If the victim is younger than 6
      b. If the victim is younger than 14 AND there is an aggravating factor
   3. A 2nd conviction of a ‘super aggravated sexual assault’ makes offender eligible for the death penalty.
   4. Continuous Abuse of a Child
      a. Created in direct response to problems inherent in prosecuting sex crimes involving children, i.e. that juries must find a defendant guilty of one particular offense.
b. There is a five year affirmative defense if the defendant was not more than 5 years older than the victim, did not use force, duress or threat and was not a registered sex offender.

5. Extension of Statute of Limitations
   a. No Limitation
      1. Sexual assault of a child
      2. Aggravated sexual assault of a child
      3. Continuous sexual abuse of young child/children
      4. Indecency with a child
   b. 20 years past the victim’s 18th birthday
      1. Sexual performance by child
      2. Aggravated kidnapping with intent
      3. Burglary with intent

6. No community supervision (probation) allowed for persons convicted of:
   a. Indecency with a child by contact if victim was younger than 14
   b. Aggravated sexual assault, if victim was younger than 14
   c. Sexual assault, if victim was younger than 14
   d. Aggravated kidnapping with intent, if victim was younger than 14
   e. Sexual performance by a child.

7. Enhances the penalties for sexual performance of a child from second and third degree felonies to first and second, when the child is under the age of 14.

8. Mandates that district courts must give priority to trying cases expeditiously for sexually violent offenses for which the victim is a child under 14.


10. Mandates active GPS monitoring for all civilly committed sex offenders.

11. Clarifies that knowingly harboring a sex offender who is in violation of registration is a 3rd degree felony.
4.3 **Learning Objective:** The student will be able to describe the process for sex offender registration in Texas as outline in Chapter 62 of the Code of Criminal Procedure.

A. First sex offender registration laws in Texas went into effect on September 1, 1991 and have been amended every legislative session since then.

B. Who is required to register?
   1. Any person with a reportable conviction or adjudication must register as a sex offender.
   2. Sex offenders from other states if the sex offender's conviction is a reportable conviction or adjudication and the offender resides, works or attends school in Texas.
   3. Sex offenders convicted under federal law, military law or the laws of another country if the sex offender's conviction is a reportable conviction or adjudication and the offender resides, works or attends school in Texas.
   4. Nonresident sex offenders register only for as long as they work or attend school in Texas.

C. A sex offender must register with the local law enforcement authority of the municipality (designated appointee of the chief of police) where the offender resides. If they don't reside in a municipality, the offender must register with the law enforcement of the county (sheriff) where they reside.

D. Registration is required not later than the seventh day after the offender arrives in the municipality or county, which becomes the offender primary registration authority and seven days prior to leaving.

E. Texas Sex Offender Registration Program requires:
   1. Offenders full name, alias, date of birth, sex, race, height, weight, eye and hair color, social security number, driver's license number, shoe size and home address.
   2. Recent photograph, preferably an electronic digital image and fingerprints.
   3. Type of offense convicted of, age of the victim, date of conviction and punishment received.
   4. Disposition; discharged date, paroled, or released on juvenile probation, community supervision or mandatory supervision.
   5. Any professional license, certificates and or permits held.
   6. If the offender will be employed, carrying on a vocation or a student at public or private institution of higher education in the state or another state and the name and address of the institution.
7. Local authority to maintain the registration must provide notification to schools if required and submit information to the Texas Department of Public Safety.

8. Offenders are required to periodically verify registration information (quarterly, semi annually or annually) and report changes in job status, health status and educational status.

9. They are required to register either for life or for ten years (post ten) following discharge from state supervision.

10. It is a felony offense if a person required to register fails to comply with any requirement under the Texas Sex Offender Registration Program.

F. Public Notification:
1. DPS Sex Offender Database (public information)
2. Postcard Notification of Civilly Committed (High Risk Offenders only)
3. School Notification

4.4 Learning Objective: The student will be able to list and describe the three different levels of Sex Offender classification.

A. The **Adam Walsh Child Protection and Safety Act** was signed into law by U.S. President George W. Bush on July 27, 2006. The legislation organizes sex offenders into three tiers, and mandates that Tier 3 offenders update their whereabouts every three months. Failure to register and update information is a felony under the law. It also created a national sex offender registry and instructs each state and territory to apply identical criteria for posting offender data on the Internet (i.e., offender's name, address, date of birth, place of employment, photograph, etc).

B. **Level I** - The vast majority of registered sex offenders are classified as Level 1 offenders. They are considered at low risk to re-offend. These individuals may be first time offenders and they usually know their victims.

C. **Level II** - Offenders have a moderate risk of re-offending. They generally have more than one victim and the abuse may be long term. These offenders usually groom their victims and may use threats to commit their crimes. These crimes may be predatory with the offender using a position of trust to commit their crimes. Typically these individuals do not appreciate the damage they have caused to their victims.

D. **Level III** - Offenders are considered to have a high risk to re-offend. They usually have one or more victims and may have committed prior crimes of violence. They may not know their victim (s). The crime may show a manifest cruelty to the victim (s) and these offenders usually deny or minimize their crime. These offenders commonly have clear indications of a personality disorder.
4.5 **Learning Objective:** The student will be able to list and describe the two categories of sexual dysfunctions.

A. **Paraphilias** – a classification of sexual behaviors, some which may be considered aberrant.
   1. **Exhibitionism** – involves the exposure of one’s genitals to a stranger.
   2. **Fetishism** – involves the use of non-living objects in sexual activity.
   3. **Frotteurism** – involves touching and rubbing against a non-consenting person.
   4. **Pedophilia** – involves sexual activity with a prepubescent child (generally 13 or younger).
   5. **Sexual Masochism** – involves the act (not simulated) of being humiliated, beaten, bound, or otherwise made to suffer.
   6. **Sexual Sadism** – involves the act (not simulated) in which the individual derives sexual excitement from the psychological or physical suffering (including humiliation) of the victim.
   7. **Transvestic Fetishism** – involves cross-dressing.
   8. **Voyeurism** – involves the act of observing unsuspecting individuals, **(Peeping Tom)** usually strangers, who are naked, in the process of disrobing, or engaging in sexual activity.
   9. **Autoeroticism** – involvement in sexual behavior without a partner.
   10. **Erotic Asphyxiation** – usually involves masturbation while restricting the flow of oxygen to the brain.
   11. **Bestiality** – involves sexual activity with animals.
   12. **Gerontophilia** – involves the use of an elderly person as a sexual object.
   13. **Incest** – involves sexual intercourse between family members.
   14. **Infibulations** – torture of one’s own body.
   15. **Klismaphilia** – sexual arousal linked with being given an enema, either in fantasy.
   16. **Mysophilia** – involves erotic interest in filth.
   17. **Necrophilia** – erotic interest in dead bodies.
   18. **Pygmalionism** – sexual attraction to a statue (agalmatophilia), doll, or mannequin.
   19. **Scatophilia** – involves sexual pleasure from making obscene phone calls.
   20. **Scoptophilia** – also known as voyeurs.
   21. **Triolism** – erotic stimulation is gained by watching oneself and/or others in sexual scenes.
B. **Pedophilia** – primary sexual exploiter of children, with sexual behavior that is repetitive and highly predictable.

1. Basic characteristics:
   a. Long term and persistent pattern of behavior.
   b. Children as preferred sexual objects.
   c. Well developed techniques in obtaining victims.
   d. Sexual fantasies focusing on children.

2. Types of Pedophilia:

<table>
<thead>
<tr>
<th>Fixated (Preferential)</th>
<th>Regressed (Situational)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary sexual orientation to children</td>
<td>Primary sexual orientation to age-mates</td>
</tr>
<tr>
<td>Pedophilic interests begin at adolescence</td>
<td>Pedophilic interests emerge in adulthood</td>
</tr>
<tr>
<td>No precipitating stress</td>
<td>Precipitating stress</td>
</tr>
<tr>
<td>Persistent interest-compulsive behavior</td>
<td>Involvements may be more episodic</td>
</tr>
<tr>
<td>Premeditated offenses</td>
<td>Less planning</td>
</tr>
<tr>
<td>Identification with the victim—may adopt a pseudo-parental role to the victim</td>
<td>Replaces conflictual adult and/or relationship with involvement with the child</td>
</tr>
<tr>
<td>Male victims are primary targets</td>
<td>Female victims are primary target</td>
</tr>
<tr>
<td>Little or no sexual contact with age-mates, usually single or in marriage of convenience</td>
<td>Sexual contact with age-mates, usually married</td>
</tr>
<tr>
<td>Infrequent alcohol or drug abuse</td>
<td>More frequent alcohol or drug abuse</td>
</tr>
<tr>
<td>Characterological immaturity; poor peer relations</td>
<td>More traditional lifestyle but underdeveloped peer relationship</td>
</tr>
<tr>
<td>Offense is maladaptive resolution of life issues</td>
<td>Offense is maladaptive attempt to cope with specific life stressors</td>
</tr>
</tbody>
</table>

C. Types of child molesters:

**Situational**

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<tr>
<th>Basis Characteristics</th>
<th>Regressed</th>
<th>Morally Indiscriminate</th>
<th>Sexually Indiscriminate</th>
<th>Inadequate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor coping skills</td>
<td>User of people</td>
<td>Sexual experimentation</td>
<td>Social misfit</td>
<td></td>
</tr>
<tr>
<td>Substitution</td>
<td>Why not?</td>
<td>Boredom</td>
<td>Insecurity and curiosity</td>
<td></td>
</tr>
<tr>
<td>Availability</td>
<td>Vulnerability and opportunity</td>
<td>New and different</td>
<td>Non-threatening</td>
<td></td>
</tr>
<tr>
<td>Coercion</td>
<td>Lure, force or manipulation</td>
<td>Involve in existing activity</td>
<td>Exploits size, advantage</td>
<td></td>
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<tr>
<td>Possible</td>
<td>Sadomasochistic; detective magazines</td>
<td>Highly likely; varied nature</td>
<td>Likely</td>
<td></td>
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Preferential

<table>
<thead>
<tr>
<th>Common Characteristics</th>
<th>Seduction</th>
<th>Introverted</th>
<th>Sadistic</th>
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<tr>
<td></td>
<td>Sexual preference of children, collects child pornography or erotica</td>
<td>Sexual preference of children, collects child pornography or erotica</td>
<td>Sexual preference of children, collects child pornography or erotica</td>
</tr>
<tr>
<td>Motivation</td>
<td>Identification</td>
<td>Fear of communication</td>
<td>Need to inflict pain</td>
</tr>
<tr>
<td>Victim Criteria</td>
<td>Age and gender preferences</td>
<td>Strangers or very young</td>
<td>Age and gender preferences</td>
</tr>
<tr>
<td>Method of Operation</td>
<td>Seduction process</td>
<td>Non-verbal sexual contact</td>
<td>Lure or force</td>
</tr>
</tbody>
</table>

4.6 **Learning Objective**: The student will be able to describe some of the characteristic behavior of a sex offender.

A. Sex offenders come from all walks of life, all educational levels and from every trade and profession. They have certain characteristics (shared by many non-offenders) that, when found in combination, can be utilized in their early identification.

1. Loners - sex offenses and deviant thinking occur almost exclusively in isolation.
2. Non-violent - while he/she may threaten a lot, most are extremely non-violent.
3. Manipulators and Groomers – sex offenders manipulate and groom their victims. Except for power rapists, the overwhelming majority of sex offenders would be “turned off” by any form of violence. The act of “seduction” is an integral part of their sexually deviant thought process.
4. Employed, self-supporting.
5. Responsible - except for his sexual deviancy.
6. Extreme denial about the devastating effects of his crimes.
7. Self-indulgent – more so than the average person.
8. Arrogant and self-centered.
9. People Pleasers - often overly polite and trying to be “Mr. Nice Guy.”
10. Planners and/or schemers - seldom offend without a lot of preparation.
11. Religious - at least see themselves as God fearing people.
12. Rationalizes, intellectualizes, and justifiers.
13. Boundary makers (i.e., they usually make their own boundaries).
15. Users of various kinds of pornography.
16. Usually have good hygiene and good manners.
17. Charitable and (on the surface at least) caring individuals. Most offenders do establish a rapport with their victims. This is done with apparent care and concern, gifts, and privilege indulgence that are easily and usually interpreted by the victim as love. In this fact it is understood that one does not sexually abuse someone whom they really love and care for; however, the victim doesn’t know this at the time they are being abused.

B. To a lesser extent than those listed above, a significant majority of sex offenders have the additional characteristics set forth below:
1. Use threats of violence against their family and victims to accomplish any need. Threats of violence may include but is not limited to: intimidation, posturing, and being loud, the threat is usually more than sufficient to accomplish the intended purpose.
2. Abuse alcohol and/or drugs.
3. Abuse their wife and other family members.
5. See themselves as “victims of the system.”
6. Use anger to cover their sexual deviancy.
7. Seek personal employment where contact with children is part of the job.
8. Have prior convictions for non-sexual crimes.

4.7 **Learning Objective:** The student will be able to list information needed when interviewing sexual assault victims. *(In addition to what is covered in Learning Objective 3.3(B)(6)(f))*

A. Method of approach – surprise, con, etc.
B. Offender’s control – presence, verbal threat, display of weapon
C. Verbal activity of victim – What the victim was made to say
D. Sudden change in the offender’s attitude during assault – What preceded the change?
E. Offender’s sexual dysfunction – erectile insufficiency, premature ejaculation etc.

F. Verbal activity of the offender – threats, orders, obscene names and racial epitaphs, inquiries about victim’s sexual enjoyment, etc.

G. Missing Items – valuables, personal, evidentiary.

4.8 **Learning Objective:** The student will be able to describe the difference between an offense that is Sexually Sadistic or that is a Lust Murder.

A. Sexual Sadistic defined:
   1. Refers to sexual gratification in the infliction of pain or suffering upon another person.
   2. Inflicting pain is the means to create suffering and to elicit the desired responses of obedience, submission, humiliation, fear and terror.
   3. Derived from the name of Marquis de Sade, a prolific French philosopher-writer of sexually violent novels and plays.

B. Lust Murder defined:
   1. A homicide in which the offender searches for erotic satisfaction by taking away the victim's life. Commonly this type of crime is manifested either by murder during sexual intercourse or by mutilating the sexual organs or areas of the victim's body.
   2. Lust murderers are predominantly heterosexual and intra-racial (same race), usually committed by males.
   3. Distinguished from sadistic homicide by the involvement of a mutilating attack or displacement of breast, rectum or genitals. It is premeditated in the obsessive fantasies of the perpetrator. Fantasy provides them an avenue of escape from a world of hate and rejection.
   4. The term also refers to an individual who gains sexual arousal from the act of committing murder, or has persistent sexual fantasies of committing murder, even if the murder itself does not involve genital mutilation.
   5. Jeffery Dahmer, Wayne Gacy, Jack the Ripper
<table>
<thead>
<tr>
<th>Sexual Sadistic</th>
<th>Lust Murder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Careful planning of the offense</td>
<td>Spontaneous event</td>
</tr>
<tr>
<td>Victim is a stranger</td>
<td>Victim known</td>
</tr>
<tr>
<td>Victim in captivity for 24 hours or more</td>
<td>Depersonalizes victim</td>
</tr>
<tr>
<td>Victim taken to a predetermined location</td>
<td>Chaotic crime Scene</td>
</tr>
<tr>
<td>Use of blindfold and or gag</td>
<td>No restraints</td>
</tr>
<tr>
<td>Sexual bondage</td>
<td></td>
</tr>
<tr>
<td>Anal assault and variety of sexual act w/victim</td>
<td>Sex after death</td>
</tr>
<tr>
<td>Forced fellatio – oral stimulation (sucking) of the penis</td>
<td></td>
</tr>
<tr>
<td>Unemotional during the commission</td>
<td>Minimal conversation</td>
</tr>
<tr>
<td>Victim beaten using blunt force trauma</td>
<td>Sudden violence</td>
</tr>
<tr>
<td>Intentional torture</td>
<td></td>
</tr>
<tr>
<td>Offense ended with murder – using strangulation</td>
<td></td>
</tr>
<tr>
<td>Concealed victim’s corpse</td>
<td>Body not moved</td>
</tr>
<tr>
<td></td>
<td>Physical evidence</td>
</tr>
</tbody>
</table>

4.9 **Learning Objective:** The student will be able to describe psychological profiling.

A. Psychological Profiling defined:
   1. Involves investigating an offender's behavior, motives and background in an attempt to further guide an investigation of an individual who committed a certain crime.
   2. Based on characteristic patterns or factors that distinguish certain individuals from the general population.
   3. A useful tool that must not alter, suspend or replace prescribed investigative procedures because it may hamper an investigation sending the officer in the wrong direction.

B. Sex Offender crimes suitable for profiling:
   1. Sadistic torture in sexual assaults
   2. Eviscerations (organ removal)
   3. Postmortem cases of slashing and cutting
   4. Lust and mutilation murders
5. Rapes
6. Child sexual abuse including pedophilia
7. Obscene and terroristic letter writing

C. Material necessary for profiling:
1. Investigative reports
2. Autopsy protocols
3. Detailed photographs of the body
4. Detail photographs of the scene
5. Detail photographs of the surrounding area
6. Any known information pertaining to victim and activities

4.10 **Learning Objective:** The student will be able to list and describe Legislative updates passed during the 80th Legislative Session that are relevant to Sex Offenders (See Appendix 1).

<table>
<thead>
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<th>Code</th>
<th>Description</th>
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</thead>
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<td>Duration of Protection Order</td>
</tr>
<tr>
<td>CCP Art. 13.315</td>
<td>Failure to Comply with Sexually Violent Predator Civil Commitment Requirement</td>
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<tr>
<td>CCP Art. 15.27</td>
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<td>CCP Art. 17.292</td>
<td>Magistrate’s Order for Emergency Protection</td>
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<td>CCP Art. 37.07</td>
<td>Verdict must be General Separate Hearing on Proper Punishment</td>
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<td>PC §12.12</td>
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<td>PC §22.021</td>
<td>Aggravated Sexual Assault</td>
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<td>PC §39.04</td>
<td>Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody</td>
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Appendix 1 (Updates from the 80th Legislative Session)
Special Investigative Topics - Texas 80th Legislative

Code of Criminal Procedures

CCP Art 2.30 (HB 2210) - Report Concerning Certain Assaultive or Terroristic Offenses

HB 2210 creates this article, which requires a peace officer to prepare a written report in the investigation if the following offenses:

- Assault,
- Aggravated assault
- Sexual assault
- Aggravated sexual assault
- Terrorism threat

On request of an alleged victim of one of these offenses, and at no cost to that victim, the agency that investigated the case must provide that victim with information from the written report regarding the suspect’s name, and the date, time and location of the incident, as well as any other information not otherwise exempt from disclosure under the Public Information Act or other law. (See Art. 5.05(f) for a related change made by HB 2210 regarding family violence cases)

CCP Art 5.04 (SB 723) – Family Violence Prevention: Duties of Peace Officers

SB 723 (effective June 15, 2007) requires a peace officer investigating a family violence incident to determine whether any of the addresses of the person involved match the address of a foster home listed in the Texas Crime Information Center (TCIC). (See Art. 5.05 for related changes by SB 723)

CCP Art 5.05 (SB 723 and HB 2210) - Report and Records

SB 723 (effective June 15, 2007) adds new subsection (a-1) to require a peace officer investigating family violence incident to make a report to the Department of Family and Protective Services (DFPS) if the location of the incident or the address of a person involved matches the address of a licensed foster home or verified agency foster home already listed in TCIC. The officer’s report to DFPS must include basic information from the incident report and be filed with DFPS within 24 hours after the investigation begins. SB 723 also gives DFPS access to law enforcement agencies’ family violence reports if they involve a person who is 14 or older and who resides in a licensed foster home or verified agency foster home. (For more on this new TCIC record keeping duty created by SB 723, see Human Resources Code Chapter 42.)
HB 2210 adds new subsection (f) to require an agency that investigates a family violence case to provide the victim of the alleged offense with certain basic information from the written report (such as the suspect’s name, the date, time and location of the incident, and any other information not otherwise exempt from disclosure under the Public Information Act or other law). The information must be supplied only upon request of the victim, who cannot be charge for the agency’s compliance. (See Art. 2.30 for a related change made by HB 2210 regarding non-family violence cases.)

**CCP Art 7A.01 (HB 8 and HB 1988) – Application for Protective Order**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (PC §21.02) to the list of offenses for which a victim may file an application for sexual assault protective order under this article.

HB 1988 adds Indecency with a Child (PC §21.11) to the list of offenses for which a victim may file an application for a protective order under this article. The bill also expands the list of eligible applicants under this article to include a parent or guardian acting on behalf of a victim younger than 17 years of age.

**CCP Art 7A.03 (HB 1988) – Required Findings; Issuance of Protective Order**

HB 1988 changes the findings required before a court may issue a protective order to a sexual assault victim who is younger than 18 years old by removing the need to show a future threat of harm.

**CCP Art 7A.07 (HB 1988) – Duration of Protective Order**

HB 1988 creates this new article specifying that the default duration period for a sexual assault protective order is two years (as under current Family Code (FC) §85.025), but a court may grant the order for any duration up to the life of the offender and/or the victim. For lifetime duration, however, the courts must find that the victim is the subject of a threat of future harm, even if the victim is under age of 18. Like FC §85.025, this new article also includes an automatic extension if the respondent is confined or imprisoned on the date the order is due to expire, resulting in a new expiration date that is one year from the date of the respondent’s release. The bill also permits a victim or eligible parent/guardian of a victim to file an application with the court to rescind a sexual assault protective order at any time (as opposed to after one year, as under FC§85.025.

Note that the changes made by HB 1988 to Chapter 7A apply to a sexual assault protective order issued on or after September 1, 2007, regardless of the date any alleged offense upon which the order is based may have been committed.

**CCP Art. 12.02 (HB 959) – Felonies**

HB 959 increases the statue of limitations to prosecute Injury to a Child from 10 years from date of offense to 10 years after the victim’s 18th birthday.
CCP Art 13.315 (HB 2034) – Failure to Comply with Sexually Violent Predator Civil commitment Requirement

HB 2034 creates this article to specify that a criminal violation of a civil commitment requirement may be prosecuted in any county in which an element of the offense occurs or in Montgomery County, where the civil commitment program is based.

CCP Art 15.27 (HB 2532, SB 6 and SB 230) – Notification to Schools Required

HB 2532 (effective June 15, 2007) and SB 6 imposed essentially identical new notice requirements relating to certain students attending schools:

- New subsection (a-1) permits a superintendent to share a student’s confidential information described by subsection (a) with certain employees at the student’s school if the information is needed for educational or school safety purposes. The language of this new subsection is almost identical to former subsection (d), which has been deleted.

- Subsection (b) now requires prosecutors to include in their notices to schools whether the student is required to register as a sex offender. It also replaces the superintendent’s duty to notify other appropriate school employees “promptly” with a bright-line 24 hours deadline. Note also the new subsection (j) requires this notification in addition to any other notice required by Chapter 62 (Sex Offender Registration Program).

- Subsection (c) also imposes a new 24 hour rule for probation and parole departments to notify school superintendents and for the relay of that notice to appropriate school employees. In addition, the notification duty under this subsection is expanded to juvenile probation departments and TYC.

SB 230 (effective June 15, 2007) also amends subsection (c) to apply this subsection’s notification requirements to schools to which a student is returning, not just to officials at the new school.

CCP Art 17.152 (HB 3692) – Denial of Bail for Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case

HB 3692 (effective January 1, 2008, contingent upon voter’s approval of HJR 6) permits the denial of bail to certain persons who commit an offense under newly amended Penal Code §25.07 (Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case), including a violation of:

- A condition of bond in a family violence case
- An emergency protective order; or
- An active protective order, including a temporary ex parte order
In each instance, the defendant is entitled to a hearing within 48 hours of arrest at which time the alleged violation must be established by a preponderance of the evidence before the defendant can be committed without bail. The statute also permits a judge to consider the following factors in determining whether to deny bail:

- The order or condition of bond that was violated;
- The nature and circumstances of the alleged offense;
- The relationship between the accused and the victim, including the relationship’s history;
- Any criminal history of the accused; and
- Any other facts or circumstances relevant to a determination of whether the accused poses an imminent threat of future family violence.

For a person arrested for an offense under Penal Code §25.07, subsection (f) of this new article requires notice be provided to the appropriate prosecutor prior to magistration under Art.15.17 (Duties of Arresting Officer and Magistrate), at which time the magistrate must conduct a hearing and make the determinations necessary to deny bail under this article.

CCP Art 17.292 (SB 584) - Magistrate’s Order for Emergency Protection

In addition to family violence and stalking crimes, SB 584 (effective May 11, 2007) extends the application of this article to defendants arrested for sexual assault aggravated sexual assault.

CCP Art 18.021 (HB 8) – Issuance of Search Warrant to Photograph Injured Child

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new Penal Code §21.02) to the list of offenses for which a search warrant may be issued under this article.

CCP Art 21.31 (HB 8) – Testing for Aids and Certain other Diseases

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new Penal Code §21.02) to the list of sexual offenses to which this article applies.

CCP Art. 37.07 (HB 8) – Verdict Must be General Separate Hearing on Proper Punishment

HB 8 excludes the new offense of Continuous Sexual Abuse of Young Child or Children (new PC §21.02) and the new “super aggravated sexual assault” enhancement created by PC 22.041 (f) from the existing jury instructions on parole in §4. However HB 8 does not provide any new jury instruction for these crimes, neither of which is eligible for parole; those instruction must be fashioned by individual courts on an ad hoc basis, it at all.
CCP Art. 37.072 (HB 8) – Procedure in Repeat Sex Offender Capital Case

HB 8 creates this new article governing a trial’s punishment phase for “super aggravated sexual assault in which the prosecution seeks the death penalty due to an eligible prior conviction. The procedures under this article are purposely identical to those provide in Art. 37.071 (Procedure in Capital Case) with one exception: The special issue involving the law of parties requires a finding that the defendant actually engaged in the sexual conduct at issue or did not engage in that sexual conduct but intended that the sex crime be committed against the victim or another intended victim. In contrast, Art. 37.071 require a finding relating to the victim’s death. Because HB 8 authorizes a death sentence without proof of a homicide, that death specific language in Art. 37.071 are not suitable for this new capital sex crime.

CCP Art 38.071 (HB 8) – Testimony of Child who is Victim of Offense

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new PC §21.02) to the list of offenses to which this article applies.

CCP Art 42.0131 (SB 1470) – Required Notice for Persons Convicted of Misdemeanors Involving Family Violence

SB 1470 creates this new article requiring a court to notify a person convicted of a misdemeanor involving family violence that it is unlawful for that person to possess or transfer a firearm or ammunition. The bill also adds a similar admonition to Art. 26.13 (Plea of Guilty) for those who dispose of their case by a guilty or no-contest plea.

CCP Art 42.017 (HB 8) – Finding Regarding Age Based Offenses

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new PC §21.02) to the list of sexual offenses to which this article applies.

CCP Art 42.0191 Finding Regarding Victims of Trafficking or other Abuse

HB 1121 (effective June 15, 2007) creates this new article authorizing a judge to enter an affirmative finding that a crime victim is eligible for a certain type of federal visa under the Victims of Trafficking and Violence Protection Act of 2000. These visas are designed to provide legal immigration status to illegal immigrants who are victims of severe form of human trafficking and are assisting or are willing to assist authorities investigating criminal activity.

To establish eligibility for this visa, a prosecutor must request that the trial court enter a finding that the victim:

- Is or has been a victim of severe form of human trafficking; or
- Has suffered substantial physical or mental abuse as a result of certain conduct.
For the purpose of meeting the first element, “severe forms of human trafficking” is defined under 22 U.S.C. 7102(8) as either:

- Sex trafficking, in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such an act is younger than 18; or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

For purposes of meeting the second element, 98 U.S.C. 1101(a)(15)(U)(iii) requires proof of criminal activity that involve one or more of the following crimes or any similar activity in violation of federal, state, or local criminal law:

- Rape, incest, sexual assault, abusive sexual contact, prostitution, sexual exploitation, or female genital mutilation;
- Torture;
- Trafficking, being held hostage, peonage, involuntary servitude, or slave trade;
- Kidnapping, abduction, unlawful criminal restraint, or false imprisonment;
- Blackmail or extortion;
- Manslaughter, murder, felonious assault, or domestic violence;
- Witness tampering, obstruction of justice, or perjury; or
- An attempt, conspiracy, or solicitation to commit any of the above mentioned crimes.

CCP Art 42.12 Sec (3)(g) (HB 8) – Community Supervision; Limitation on Judge Ordered Community Supervision

HB 8 adds Sexual Performance by a Child (PC §43.25) to the list of 3g offenses. SB 877 also adds intentional Injury to a Child resulting in serious bodily injury (PC §22.04(a)(1)) to the same list. Both additions can be found under dueling versions of new subsection (a)(1)(I).

CCP Art 42.12 Sec (4) (HB 8) - Community Supervision; Jury Recommended Community Supervision

A jury can no longer recommend community supervision of the following offenses:

- Murder (PC §19.02) (HB 1678)
- Indecency with a Child by Contact (PC §21.11(a)(1)) if the victim was younger than 14
- Aggravated Sexual Assault (PC §22.021) if the victim was younger 14
- Sexual Assault (PC §22.021) if the victim was younger than 14
- Aggravated Kidnapping (PC §20.04) if the victim was younger than 14 and was kidnapped with the intent to be sexually abused; and
- Sexual Performance by a Child (PC §43.25)

HB 8 adds of most of these restrictions by including them in the list of 3g offenses. Interestingly, Sexual Performance by a Child is included by a reference to §3g(a)(1)(l), but as noted in the comments on that section SB 877 also added a subset of Injury to a Child cases under that same subsection. That means that on its face, prosecutions for those types of Injury to a Child cases could also be barred from eligibility for jury-recommended probation, event though that was not contemplated or discussed during HB 8’s passage. Whether the use of statutory references instead of offense names has that effect will ultimately be decided by the courts, but until the legislature can revisit the issue, it gives prosecutors and defense counsel something new to debate.

In addition to these new restriction on jury-recommended probation, HB 1887 adds new subsection (f) to require a one-year minimum period of community supervision for a second conviction of burglary of a vehicle punishable as a Class A misdemeanor with a six-month minimum sentence. (See PC §30.04 for more notes on HB 1887.)

CCP Art 42.12 Sec (5) (HB 8) - Community Supervision; Jury Recommended Community Supervision

The following offenses are now ineligible for deferred adjudication:
- Continuous Sexual Abuse of Young Child or Children (PC §21.01)
- “Super” Aggravated Sexual Assault of a Child (PC §22.021 (f); and
- Driving While Intoxicated with Child Passenger (PC §49.045) (HB 2115)

For those offenders on deferred adjudication, SB 909 (effective June 15, 2007) amends subsection (b) to permit an appeal of a court’s decision to proceed to an adjudication of guilt along the same lines as an appeal of a decision to revoke straight probation. Not only was this changed effective June 15, 2007, but it also applies to any decision to adjudicate made on or after that date, regardless of when the original offense was committed or the adjudication of guilt was originally deferred.

CCP Art 42.12 Sec 14 (SB 44) - Community Supervision; Child Abusers and Family Violence Offenders Special Conditions

SB 44 amends this section to reflect the implementation of an accreditation process for battering intervention and prevention programs. By September 1, 2009, a court requiring a defendant to attend one of those courses must use an accredited program or provider; see Art. 42.141, §4A, for more details on that new accreditation program.
CCP Art 42.13 Sec 22 (HB 1678) – Community Supervision; Extending Supervision Period for Sex Offender

HB 1678 requires a judge to credit the defendant any time served as a condition of probation in a SAFP facility or other court-ordered residential program or facility if the defendant successfully completed the treatment program in that facility. The new language provides no standards or guidelines for how a judge is to determine whether a defendant successfully completed one of these programs, and if so, how much credit is due that defendant.

CCP Art 56.01 (HB 8) – Definitions Right of Crime Victims

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new PC §21.02) to the list of offenses considered to be “sexual assault” under this chapter.

CCP Art 56.02 (HB 8) – Crime Victims’ Rights

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new PC §21.02) to the list of offenses in subsection (a)(11) for which a victim may request counseling and/or testing for certain infectious diseases.

CCP 56.81.93 (SB 74) – Address Confidentiality Program for Victims of Family Violence, Sexual Assault, or Stalking

SB 74 (effective June 15, 2007) creates this subchapter to establish an address confidentiality program for victims of family violence, sexual assault, and stalking. The program—which is to be administered by the attorney general—is designed to protect those victims’ identities by establishing a confidential mailing address that allows them to conceal their whereabouts from their assailants. Although SB 74 is already in effect, the Attorney General has until June 1, 2008, to establish the program and adopt rules necessary to administer it in accordance with that legislation.

Highlights of the new program include the following:

- To be accepted into the program, applicants must:
  
  (1) meet with a victim assistance counselor employed with a governmental entity or other entity that provides counseling and services to crime victims;
  
  (2) file a sworn application stating, among other things, that the applicant fears for the safety of the application, the applicant’s child, or another person in the applicant’s household due to a threat of harm made by a person alleged to have committed a crime listed under this subchapter;
  
  (3) designated the attorney general as their agent to receive process/mail; and
  
  (4) live at a residential address unknown to their assailant (Art. 56.83);
(5) To be accepted into the program, applicants must:

• Legal documents or orders for program participants are to be served on the attorney general’s office on their behalf (Art. 56.82);
• Participation in the program lasts for three years, is subject to renewal, or can be cancelled by the participant at any time (Arts. 56.84-87); and
• Information relating to a participant is confidential and may not be disclosed under Government Code Chapter 552 (Public Information) except as provided by this subchapter, which also includes exceptions for law enforcement agencies, court orders, and disclosures by consent of the participant or attorney general (Arts. 56.88-90).

For more changes made by SB 74, see new Chapter 57B (Confidentiality of Identifying Information of Family Violence Victims).

CCP Art 57.02 (HB 433 and HB 1944) – Confidentiality of Files and Records

HB 433 and HB 1944 (effective June 15, 2007) both add nearly identical versions of new subsection (i) stating that this article does not prevent TDCJ’s inspector general from disclosing a victim’s identifying information to a TDCJ employee (HB 433) or to the TDCJ ombudsman (HB 1944) if the victim of the applicable sex crime is a TDCJ inmate.

CCP Art 57.03 – Offenses

HB 433 and HB 1944 (effective June 15, 2007) both add exceptions to prosecution for the release for the release of information that is no longer confidential under each bill’s version of Art 52.02(i).

CCP Art 57B.01-.05 (SB 74) – Confidentiality of Identifying Information of Family Violence Victims

In addition to creating and address confidentiality programs for victims of family violence, sexual assault, and stalking in Articles 56.81-.93, SB 74 (effective June 15, 2007) also creates this chapter to establish a system for granting pseudonyms for use by victims of family violence. This new systems is almost identical to the pseudonym system available under Chapter 57 (Confidentiality of Identifying Information of Sex Offense Victims), with the addition of two limited exceptions for the Department of family and Protective Services (DFPS) and certain political subdivision.
CCP Art 62.001 (HB 8 and HB 3167) – Definition Sex Offender Registration Program

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new PC §21.02) to the list of registerable offenses under subsection (5) and the list of sexually violent offenses under subsection (6). HB 8 and HB 3167 also renumber Online Solicitation of a Minor (PC §33.021) in the list of registerable offenses.

Family Code

FC §85.022 (SB 44) – Requirements of Order Applying to Person who Committed Family Violence

SB 44 amends this section to reflect the implementation of an accreditation process for battering intervention and prevention programs. By September 1, 2009, a court requiring defendant to attend one of those courses must use an accredited program or provider; see Art. 42.141 §4A, for more details on that new accreditation program.

FC §201.007 (SB 758) – Powers of Associate Judge

SB 758 grants an associate judge the power to issue a summons for the appearance of a parent who has failed to appear before an agency conducting an investigation of all allegations of abuse or neglect after receiving proper notice.

FC §261.303 (SB 758) – Investigation of Report of Child Abuse or Neglect; Permanency Progress Report

SB 758 requires a person, including a medial facility, to release DFPS or another designated agency any records that relate to suspected abuse or neglect without requiring parental consent or a court order. It also requires a person or entity, including a utility company, with confidential locating or identifying information regarding a family subject to a child abuse or neglect investigation to release that information to DFPS on request.

FC §261.3031 (SB 758) – Failure to Cooperate with Investigation; Department Response

SB 758 provides that a person’s failure to report to an investigating agency within a reasonable time after receiving proper notice constitutes refusal to cooperate with the investigation, and summons may be issued to locate the person.
FC §263.407 (HB 1747) Final Order Appointing Department a Managing Conservator or Certain Abandoned Children; Termination of Parental Rights

HB 1747 (Baby Moses) provides a presumption that a person leaving a baby under this is the presumed parent, intends to waive right to notice, and allows the Department to file for immediate termination of parental rights. Although these are the changes for the legislature, law enforcement needs to be aware of the Baby Moses Statue in general so that if they receive a call regarding an “abandoned” infant that meets the statue, they do not begin a search for the parent but immediately notify the Department.

FC §264.203 (SB 758) Required Participation

SB 758 amends subsection (a) to authorize a court to order household members to participate in services reducing the likelihood that the child may be abused or neglected in the future. This change allows a court to make appropriate orders when the risk of child abuse or neglect exists, rather than forcing a court to wait until after child abuse or neglect has already occurred.

GC §508.46 (HB 8) – Extraordinary Vote Required

HB 8 adds Continuous Sexual Abuse of Young Child or Children (PC §21.02) to this section regarding special parole votes. However those who commit that new offense are not eligible for release on parole anyway (See §508.145(a)), so its inclusion here has no effect.

GC §508.117 (HB 8) – Victim Notification

HB 8 clarifies that Continuous Sexual Abuse of Young Child or Children (PC §21.02) is included within the scope of “sexual assault” for the purpose of determining who is entitled to notifications under this section.

GC §508.145 Eligibility for Release on Parole Computation of Parole Eligibility Date

HB 8, adds Continuous Sexual Abuse of Young Child or Children (Penal Code §21.02) and “super aggravated sexual” assaults (Penal §22.021 (f)) to the list of crimes for which a person is ineligible for release on parole.

HB 8, which adds Sexual Performance by a Child (Penal Code §43.25) to Code of Criminal Procedure Art. 42.12 as new §3g(a)(1)(I), makes a conforming change here by adding that new subdivision (I) to the list of offenses for which an inmate is not eligible for release on parole until he has served one-half of his sentence or 30 years, whichever is less.
SB 877 also adds a new but different crime to the list of 3g offenses: intentionally knowingly causing serious bodily injury to a child (Penal Code §22.04(a)(1)). Like HB 8, SB 877 adds its new crime under §3g(a)(1)(I) and then cross references that new subdivision here in the parole laws. Notwithstanding the confusion created by this duplication of subdivisions, the net effect is to add both crimes to the list of offenses for which an inmate is not eligible for release on parole until he has served one-half of his sentence or 30 years, whichever is less, even though the only change in subsection (d) of this statute is the addition of the words “or (I).”

**GC §508.146 Medically Recommended Intensive Supervision**

HB 2611 removes this section’s categorical exclusion for sex offenders, making them eligible for release on medically recommended intensive supervision if a physician determines the person to be in a persistent vegetative state or have an organic brain syndrome with significant to total mobility impairment.

**GC §508.149 Inmates Ineligible for Mandatory Supervision**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (Penal Code §21.02) and Sexual Performance by a Child (Penal Code §43.25) to the list of crimes for which a person is ineligible for release on mandatory supervision. It also makes some technical changes to update references to other offenses listed under this section.

**GC §508.151 Presumptive Parole Date**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (Penal Code §21.02) to the list of crimes for which a parole panel cannot designate a presumptive parole date.

**GC §508.187 Child Safety Zone**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (Penal Code §21.02) to the list of crimes for which a parole panel shall establish a child safety zone as a condition of parole or mandatory supervision. However, those who commit the new offense are ineligible for release on parole or mandatory supervision (see §508.145(a)), so its inclusion here has no effect.

**GC §508.189 Parole Fees for Certain Releases**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (Penal Code §21.02) to the list of crimes for which a parole panel shall require an extra $5 monthly fee. However, those who commit the new offense are ineligible for release on parole or mandatory supervision (see §508.145(a)(1)), so its inclusion has no effect.
Human Resources Code

HRC 42 Regulation of Certain Facilities, Homes and Agencies that Provide Child-Care Services

SB 723 (effective June 15, 2007) amends this chapter to create and maintain a database of licensed foster homes and verified agency foster homes that will include information about reports of family violence involving those homes or people who reside at those addresses, as reported under new Code of Criminal Procedure Art. 5.05. The bill also requires DPS to include this information in its Texas Crime Information Center (TCIC) database and establish procedures by which law enforcement can access information as to whether the address is licensed as a foster home or verified as an agency foster home under this chapter. DFPS must establish the database and a method for exchanging information with DPS and other entities by September 1, 2008.

HRC §61.098 Certain Crimes Concerning the Commission

SB 103 (effective June 8, 2007) permits a local prosecutor to enlist the aid of the special prosecution unit in prosecuting TYC related crimes. This section also requires the TYC inspector general to notify the foreman of the appropriate grand jury if he reasonably believes an offense involving physical or sexual abuse of a child at a TYC facility has not previously been presented to that grand jury (although how he would ever know that is unclear, since grand jury proceedings are secret).

Health and Safety Code

HSC §250.006 (HB 199) Convictions Barring Employment

HB 199 (effective September 1, 2007) prohibits those convicted of certain offenses from being employed to care for the elderly or disabled. Among the list of applicable offenses are sexual assault, aggravated sexual assault, indecent exposure, improper photography or visual recording, and online solicitation of a minor.

Miscellaneous Changes

MC 841.085 Criminal Penalty; Prosecution of Offense

HB 2034 (effective June 15, 2007) Amends the text of this offense to read as following: (a) A person commits an offense if, after having been adjudicated and civilly committed as a sexually violent predator under this chapter, the person violates a civil commitment requirement imposed under §841.082

This change is intended to prevent a trial court from hiding from the jury the reason the defendant was committed. In addition, the bill also provides that at the request of a local prosecutor, an attorney with the civil division of the special prosecution unit may assist in the prosecution of this crime.
**Penal Code:**

**PC §12.42 (HB 8 and SB 75) – Penalties for Repeat and Habitual Felony Offenders**

Fix a loophole in the “two strike” automatic life-sentence law by including Indecency with a Child by Contact (21.11 (a)(1)) in the list of offenses qualifying for an automatic life sentence upon conviction. Previously, Indecency with a Child by Contact was listed as a predicated offense but was not among those subsequent crimes eligible for an automatic life sentences.

In addition to this change in the old “two strike” law, HB 8 creates new subsection (c)(3) to make “Super” Aggravated Sexual Assault under new §22.021(f) a capital felony if the defendant has previously been finally convicted of an aggravated sexual assault that was committed in such a way that it would have been “super aggravated” under §22.021(f) if that provision had existed at that time. A “super aggravated” sexual assault committed under the laws of another state also qualifies as a predicated conviction under this new enhancement. Capital proceedings for this new capital felony are governed by new CCP Art §37.072l (see the notes under that provision for more details).

HB also creates new subsection (c)(4) to impose a mandatory sentence of life without parole upon a defendant convicted of a second, subsequent offense of Continuous Sexual Abuse of Young Child or Children (new §21.02). As with the changes to subsection (c)(3), an offense committed in another state that is substantially similar to §21.02 may qualify as a prior conviction under this new enhancement.

**PC §15.031 (HB 8) – Criminal Solicitation of a Minor**

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new §21.02) to the list of predicated offenses for which it is a crime to solicit a minor.

**PC §21.02 (HB 8) – Continuous Sexual Abuse of Young Child or Children**

HB 8 (Jessica’s Law) creates this new continuous-course-of-conduct offense that applies to repeated (two or more) acts of sexual abuse committed over a period of at least 30 days against a child or children under age 14. The punishment range for this new first-degree felony is 25 to 99 years or life in prison. There is no provision for early release from the sentence, and a subsequent conviction is punishable by life in prison without parole under new §12.42 (c)(4).

“Act of sexual abuse” under this new offense includes that following conduct:

- indecency with a child (by contact offense with the genitals or anus, but not with the breast);
- sexual assault;
- aggravated sexual assault;
- aggravated kidnapping with intent to violate or abuse the victim sexually
- burglary of a habitation with intent to commit a sexual offense; or
- sexual performance by a child
These acts of sexual abuse may be committed by the defendant against one or more child victims to reach the minimum of two discrete acts required under the statue; beyond that, it does not matter if there were two acts or 222 acts, the continuing conduct is all prosecutable under this new offense.

To protect against excessively punishing “Romeo and Juliet” relationships, the offense of Continuous Sexual Abuse includes an affirmative defense to prosecution if the defendant was not more than five years older than the victim; did not use duress, force, or a threat; and that was not a registered sex offender. This affirmative defense does not apply to other sex offenses, including any lesser-included offenses; there continues to be separate-but-similar three year “Romeo and Juliet” affirmative defense for indecency with a child and sexual assault of a child. Therefore, acts of sexual abuse that cannot be prosecuted under §21.02 due to the five-year affirmative defense may still be eligible for prosecution as separate acts under the lesser included offenses applicable to that conduct, depending upon the ages of the persons involved.

The creation of this offense of Continuous Sexual Abuse was a direct response to the problems inherent in prosecuting sex crimes involving child victims, including a call for legislative action by Court of Criminal Appeals Judge Cathy Cochran. See Dixon v. State, 201 S.W.3d 731 (Tec.Crim.App.2006). Because HB 8 defines this new crime as a continuous-course-of-conduct offence, jurors in these cases will not be required to agree in their guilty verdict on the same acts of sexual abuse that occurred. Instead, the jury must unanimously agree that the defendant committed at least any two of the acts of sexual abuse alleged in the indictment over a period of 30 or more days. There, the indictment may allege numerous acts of sexual abuse; the child may testify he or she was abused dozens of times; the prosecutor need not elect specific acts of abuse for isolated consideration by the jury; and the jury may convict without having to agree among themselves as to the particular acts of abuse that occurred, as long as they all agree that at least any two of the acts occurred. By charging eligible sex crimes in this manner, the prosecution can accommodate a child’s more generalized testimony about a history of sexual abuse and dispense with the complication under current law that are associated with an election as to a specific act, all without offending the requirement that a jury make a unanimous finding that a crime was committed. This approach has been approved by courts in states with similar offenses.

**PC §21.12 (HB 401 and HB 3659) – Improper Relationship between Educator and Student**

HB 401 adds a new means of committing this offense, namely by engaging in conduct constituting Online Solicitation of a Minor (§33.021) with a student at the school where the defendant is employed. An offense under this new provision is a second-degree felony regardless of the student’s age. Thus, depending upon the student’s age, this new crime may carry a higher penalty than if the conduct were prosecuted under §33.021, which assesses punishment ranges based upon the victim’s age. HB 3659 adds new subsection (d) to specify that the name of a student/victim of this offense may not be released to the public and is not public information under Government Code Chapter 552.
PC §22.021 (HB 8) – Aggravated Sexual Assault

HB 8 adds a new 25 year mandatory minimum punishment to this first-degree felony offense. The “super aggravated” penalty enhancement created in new subsection (f) applies if:

- The victim is younger than 6 at the time of the offense; or
- The victim is younger than 14 at the time of the offense and the offense is committed in a manner described by subsection (a)(2)(A) (e.g., threats of serious bodily injury or death, use of a deadly weapon or date rape drub, or acting in concert with others)

HB 8 also makes a repeat commission of this new “super aggravated sexual assault” eligible for the death penalty (see mew CCP Art. §37.072), and it makes any offense punishable under this section ineligible for parole or deferred adjudication

PC §22.041 (HB 946) – Abandoning or Endangering Child

HB 946 expands the presumption of endangerment for cooking methamphetamine around kids, as created last session, and now applies it if there is evidence of the possession or use of meth in the child’s presence or evidence of the presence of meth in the child’s body.

The bill also adds another, much broader trigger for the presumption, one that was not originally in HB 946 but was added by an amendment late in the session. Under new subsection (c-1)(3), evidence of any unlawful use of a Penalty Group I controlled substance by the actor can raise the presumption of imminent danger, regardless of the proximity of the child(ren) at the time of that use. Depending upon the facts of a particular case, this provision might bear little or no contextual relationship to the actual endangerment of the child, so be prepared for a legal challenge if you hope to use the presumption based on generalized assertions of past drug use by the defendant under subsection (c-1) (3). (See new Health & Safety Code §481.1122 for related punishment enhancement created by HB 946.)

PC 25.07 (SB 584) (effective May 11, 2007) – Violation of Certain Court Orders or Conditions of Bond in a Family Violence Case

SB 584 amends subsection (a)(1) to include sexual assault (§22.011) and aggravated sexual assault (§22.021) among the list of predicate crimes for which an act in furtherance of those crimes may violate an applicable court order and result in prosecution under this section.

HB 3692 (effective January 1, 2008), contingent upon voters’ approval of HJR (6) expands the scope of this offense to include violation of certain temporary ex parte orders and violations of certain conditions of bond in family violence cases.
PC §33.021 (HB 401 and SB 6) – Online Solicitation of a Minor

In an effort to keep pace with technology, HB 401 adds text messaging and other forms of electronic messaging services to the types of communication prohibited under this section. (See §21.12 for related notes on HB 401.)

SB 6 increases the penalty ranges by one degree for offenses under this section involving minors 14 or older. Accordingly, improper communication (under subsection (b)) with one of those older minors is now a third-degree felony, and improper solicitation (under subsection (c)) is now a second-degree felony whether the minor is under 14 or not.

PC §38.17 (HB 8) – Failure to Stop or Report Aggravated Sexual Assault of Child

HB 8 adds Continuous Sexual Abuse of Young Child or Children (new §21.02) to the type of offenses that must be reported under this law.

PC §39.04 (SB 563, SB 103 and HB 2884) – Violations of the Civil Rights of Person in Custody; Improper Sexual Activity with Person in Custody

SB 563 (effective June 15, 2007) increases the penalty for an offense under subsection (a)(2) (improper sexual activity with person in custody) if the offense is committed against a juvenile offender in certain types of correctional facilities. The new penalty for that conduct is a second-degree felony instead of a state jail felony as under previous law.

SB 103 (effective June 8, 2007) makes similar, but not identical, changes. It expands the scope of this offense by amending subsection (a)(2) to criminalize the act of employing, authorizing, or inducing an individual in the custody of the Texas Youth Commission to engage in sexual conduct or a sexual performance. Like SB 563, SB 103 also increases the penalty for an offense under that subsection to a second-degree felony, but only if the victim is in the custody of YTC, whereas SB 563 extended that enhancement to those detained in other juvenile-related facilities as well.

In addition, SB 103 and HB 2884 amend subsection (f) to criminalize any sexual contact/intercourse between an employee of TYC or a juvenile probation department and any non-spouse of the actor is in the custody or under the supervision of that commission or probation department.

Texas Education Code

TEC 37.0831 (HB 121) Dating Violence Policies

HB 121 requires school districts to develop a dating violence policy as a part of their district improvement plan. Also requires that the policy address safety planning, enforcement of protective orders, school based alternatives to protective orders, training for teachers and administrators, counseling for affected students and awareness education for students and parents.
Appendix II (Attachments)

A. Child Abuse & Neglect
B. Family Violence
C. Sexual Assault
D. Sex Offender
A - Child Abuse & Neglect

- Joint Investigations Guidelines
- Texas Dept of Family and Protective Services – Risk Assessment
B - Family Violence

- Barriers to Leaving an Abusive Relationship
- Notification to Adult Victims (English/Spanish)
- Waiver of Gas Service Deposit
- Waiver of Electric and Telephone Service
- Fact Sheet: Certifying U Non-immigrants Status; U.S. Citizenship and Immigration Services
- Example of Domestic Violence Form
- Quick Reference to Family Violence Laws (through the 80th session)
- Pseudonym for Family Violence Survivors
C - Sexual Assault
D - Sex Offender

- Texas DPS Backgrounder: Sex Offender Registration Program
- Sex Offender Registration Form (#CR-35)
- Texas DPS Sex Offender Registration Pre-Release Forms
- Texas Sex Offender Update Form
- Texas Sex Offender Fingerprint Card
- Texas Sex Offender Registration Receipt (Blue card)
Resources

A National Resource Center for Child Death Review
2438 Woodlake Circle, Ste. 240
Okemos, MI  48864
www.childdeathreview.org/causesCAN.htm

Administration for Children and Families
370 L'Enfant Promenade, S.W.
Washington, D.C. 20201
800-422-4453
www.acf.dhhs.gov

U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau
Office on Child Abuse and Neglect
www.hhs.gov

Prevent Child Abuse Texas
13740 Research Blvd. Suite R-4
Austin, Texas 78750
512-250-8438
www.preventchildabusetexas.org

The National Coalition against Domestic Violence (NCADV)
1120 Lincoln Street, Suite 1603
Denver, CO 80203
303-839-1852
www.ncadv.org

Texas Council on Family Violence
8701 N. Mopac Expressway, Ste. 450
Austin, Texas 78759
512-794-1133
www.tcfv.org
Council on Sexual Assault and Domestic Violence
Sioux City, Iowa
800-982-7233
www.safefromabuse.com/assault.html
References


Council on Sexual Assault and Domestic Violence, [www.safefromabuse.com/assault.html](http://www.safefromabuse.com/assault.html)

Crime Victim Services Sexual Assault Division, [www.oag.state.tx.us](http://www.oag.state.tx.us)

CSADV: Sexual Assault: Rape Trauma Syndrome, [www.safefromabuse.com](http://www.safefromabuse.com)

IACP Investigating Sexual Assaults: Investigating Sexual Assault Paper

Rape, Abuse, and Incest National Network (RAINN), [www.rainn.org](http://www.rainn.org)

Rape Victim Advocates - about RVA, helping victims become survivors, [www.rapevictimadvocates.org](http://www.rapevictimadvocates.org)

Sexual Assault Crisis and Support Center - Information, [www.silentnomore.org](http://www.silentnomore.org)
Sexual Assault in Texas, www.seguinviolenceshelter.org

Statistics on Childhood Sexual Abuse and Related Issues, www.theawarenesscenter.org

Texas Association against Sexual Assault (TAASA), www.taasa.org