

Texas Penal Code § 1.07 – Definitions

In the Texas Penal Code:

- (1) “Act” means a bodily movement, whether voluntary or involuntary, and includes speech.
- (2) “Actor” means a person whose criminal responsibility is in issue in a criminal action. Whenever the term “suspect” is used in this code, it means “actor.”
- (3) “Agency” includes authority, board, bureau, commission, committee, council, department, district, division, and office.
- (4) “Alcoholic beverage” has the meaning assigned by Section 1.04, Alcoholic Beverage Code.
- (5) “Another” means a person other than the actor.
- (6) “Association” means a government or governmental subdivision or agency, trust, partnership, or two or more persons having a joint or common economic interest.
- (7) “Benefit” means anything reasonably regarded as economic gain or advantage, including benefit to any other person in whose welfare the beneficiary is interested.
- (8) “Bodily injury” means physical pain, illness, or any impairment of physical condition.
- (9) “Coercion” means a threat, however communicated:
 - (A) to commit an offense;
 - (B) to inflict bodily injury in the future on the person threatened or another;
 - (C) to accuse a person of any offense;
 - (D) to expose a person to hatred, contempt, or ridicule;
 - (E) to harm the credit or business repute of any person; or
 - (F) to take or withhold action as a public servant, or to cause a public servant to take or withhold action.
- (10) “Conduct” means an act or omission and its accompanying mental state.
- (11) “Consent” means assent in fact, whether express or apparent.
- (12) “Controlled substance” has the meaning assigned by Section 481.002, Health and Safety Code.
- (13) “Corporation” includes nonprofit corporations, professional associations created pursuant to statute, and joint stock companies.
- (14) “Correctional facility” means a place designated by law for the confinement of a person arrested for, charged with, or convicted of a criminal offense. The term includes:
 - (A) a municipal or county jail;

- (B) a confinement facility operated by the Texas Department of Criminal Justice;
 - (C) a confinement facility operated under contract with any division of the Texas Department of Criminal Justice; and
 - (D) a community corrections facility operated by a community supervision and corrections department.
- (15) “Criminal negligence” is defined in Section 6.03 (Culpable Mental States).
- (16) “Dangerous drug” has the meaning assigned by Section 483.001, Health and Safety Code.
- (17) “Deadly weapon” means:
- (A) a firearm or anything manifestly designed, made, or adapted for the purpose of inflicting death or serious bodily injury; or
 - (B) anything that in the manner of its use or intended use is capable of causing death or serious bodily injury.
- (18) “Drug” has the meaning assigned by Section 481.002, Health and Safety Code.
- (19) “Effective consent” includes consent by a person legally authorized to act for the owner. Consent is not effective if:
- (A) induced by force, threat, or fraud;
 - (B) given by a person the actor knows is not legally authorized to act for the owner;
 - (C) given by a person who by reason of youth, mental disease or defect, or intoxication is known by the actor to be unable to make reasonable decisions; or
 - (D) given solely to detect the commission of an offense.
- (20) “Electric generating plant” means a facility that generates electric energy for distribution to the public.
- (21) “Electric utility substation” means a facility used to switch or change voltage in connection with the transmission of electric energy for distribution to the public.
- (22) “Element of offense” means:
- (A) the forbidden conduct;
 - (B) the required culpability;
 - (C) any required result; and
 - (D) the negation of any exception to the offense.
- (23) “Felony” means an offense so designated by law or punishable by death or confinement in a penitentiary.
- (24) “Government” means:
- (A) the state;
 - (B) a county, municipality, or political subdivision of the state; or
 - (C) any branch or agency of the state, a county, municipality, or political subdivision.
- (25) “Harm” means anything reasonably regarded as loss, disadvantage, or injury, including harm to another person in whose

welfare the person affected is interested.

(26) “Individual” means a human being who is alive, including an unborn child at every stage of gestation from fertilization until birth.

(27) Repealed by Acts 2009, 81st Leg., ch. 87, § 25.144.

(28) “Intentional” is defined in Section 6.03 (Culpable Mental States).

(29) “Knowing” is defined in Section 6.03 (Culpable Mental States).

(30) “Law” means the constitution or a statute of this state or of the United States, a written opinion of a court of record, a municipal ordinance, an order of a county commissioners court, or a rule authorized by and lawfully adopted under a statute.

(31) “Misdemeanor” means an offense so designated by law or punishable by fine, by confinement in jail, or by both fine and confinement in jail.

(32) “Oath” includes affirmation.

(33) “Official proceeding” means any type of administrative, executive, legislative, or judicial proceeding that may be conducted before a public servant.

(34) “Omission” means failure to act.

(35) “Owner” means a person who:

(A) has title to the property, possession of the property, whether lawful or not, or a greater right to possession of the property than the actor; or

(B) is a holder in due course of a negotiable instrument.

(36) “Peace officer” means a person elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, Section 51.212 or 51.214, Education Code, or other law.

(37) “Penal institution” means a place designated by law for confinement of persons arrested for, charged with, or convicted of an offense.

(38) “Person” means an individual, corporation, or association.

(39) “Possession” means actual care, custody, control, or management.

(40) “Public place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

(41) “Public servant” means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if he has not yet qualified for office or assumed his duties:

(A) an officer, employee, or agent of government;

(B) a juror or grand juror; or

(C) an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy; or

(D) an attorney at law or notary public when participating in the performance of a governmental function; or

(E) a candidate for nomination or election to public office; or

(F) a person who is performing a governmental function under a claim of right although he is not legally qualified to do so.

(42) “Reasonable belief” means a belief that would be held by an ordinary and prudent man in the same circumstances as the actor.

(43) “Reckless” is defined in Section 6.03 (Culpable Mental States).

(44) “Rule” includes regulation.

(45) “Secure correctional facility” means:

(A) a municipal or county jail; or

(B) a confinement facility operated by or under a contract with any division of the Texas Department of Criminal Justice.

(46) “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(46-a) “Sight order” means a written or electronic instruction to pay money that is authorized by the person giving the instruction and that is payable on demand or at a definite time by the person being instructed to pay. The term includes a check, an electronic debit, or an automatic bank draft.

(46-b) “Federal special investigator” means a person described by Article 2.122, Code of Criminal Procedure.

(47) “Swear” includes affirm.

(48) “Unlawful” means criminal or tortious or both and includes what would be criminal or tortious but for a defense not amounting to justification or privilege.

(49) “Death” includes, for an individual who is an unborn child, the failure to be born alive.

Explanation of meaning of words in the Texas Penal Code

The definitions of a terms used in the Texas Penal Code apply to each grammatical variation of the term. The definitions listed in Section 1.07 in the Texas Penal Code are “general” definitions. So, if a section of the Penal Code has a separate “definitions” section then the more specific definition is used in that section. Like almost all meaning in Texas criminal law, the appellate court decisions and administrative decisions regarding the meaning may provide more information or guidance in understanding what the terms mean in Texas criminal law.

Legislative History Notes for Texas Penal Code § 1.07 – Definitions

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 912, ch. 342, § 1, eff. Sept. 1, 1975; Acts 1977, 65th Leg., p. 2123, ch. 848, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 1113, ch. 530, § 1, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 1520, ch. 655, § 1, eff. Sept. 1, 1979; Acts 1987, 70th Leg., ch. 167, § 5.01(a)(43), eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 997, § 1, eff. Aug. 28, 1989; Acts 1991, 72nd Leg., ch. 543, § 1, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 2003, 78th Leg., ch. 822, § 2.01, eff. Sept. 1, 2003; Acts 2009, 81st Leg., ch. 87, § 25.144, eff. Sept. 1, 2009; Acts 2009, 81st Leg., ch. 421, § 1, eff. Sept. 1, 2009; Acts 2011, 82nd Leg., ch. 839 (H.B. 3423), § 1, eff. Sept. 1, 2011.

Use of this Texas Criminal Law Resource

This printing of the Texas Penal Code Definitions should only be used as a reference, and during your legal research you should consult the latest version of the Penal Code, along with any applicable appellate or administrative decisions. This resource in no way replaces the expert advice of a criminal defense attorney. Legal concepts, even those seeming straight forward, can be very complicated, and you should consult a Board Certified Criminal Defense Lawyer for a full understanding of these concepts and how they relate to a specific case. This version of the Texas Penal Code general definitions section is the most current as of the last called 2014 Texas Legislative Session.

Obtaining Expert Legal Advice

Cody Cofer is an expert in criminal law. He is Board Certified by the Texas Board of Legal Specialization in the area of Criminal Law. You can schedule a consultation with an expert criminal attorney in Fort Worth, Texas by calling (817) 810-9395 or emailing ccofer@coferlaw.com. Criminal cases have serious and lifelong consequences. Under no circumstance should you endeavor to represent yourself if you are facing a criminal charge in Texas. If you live outside of the Dallas-Fort Worth (DFW) area, you can find other expert criminal defense attorneys by visiting the Texas Board of Legal Specialization website <http://www.tbls.org>. You can learn more about the area of criminal defense by visiting <http://coferlaw.com/criminal-trial-law/>.