

# CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 21, 2021  
Date

Honorable Dan Patrick  
President of the Senate

Honorable Dade Phelan  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HOUSE Bill 1927 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

<u>Schwarz</u>	<u>Matt Scheef</u>
<u>Byron Hooper</u>	<u>Tommy Cannon</u>
<u>Brent Sidwell</u>	<u>STH</u>
<u>Campbell</u>	<u>Phil Guillet</u>
<u>Branon Cosh</u>	<u>Dude Eno</u>
On the part of the Senate	On the part of the House

Draft # 87R 28556

**Note to Conference Committee Clerk:**

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.



# CONFERENCE COMMITTEE REPORT

3<sup>rd</sup> Printing

H.B. No. 1927

A BILL TO BE ENTITLED

1 AN ACT

2 relating to provisions governing the carrying of a firearm by a  
3 person who is 21 years of age or older and not otherwise prohibited  
4 by state or federal law from possessing the firearm and to other  
5 provisions related to the carrying, possessing, transporting, or  
6 storing of a firearm or other weapon; creating criminal offenses.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

8 SECTION 1. This Act shall be known as the Firearm Carry Act  
9 of 2021.

10 SECTION 2. The Legislature of the State of Texas finds that:

11 (1) The Second Amendment of the United States  
12 Constitution protects an individual right to keep and bear arms,  
13 and to possess a firearm unconnected with service in a militia, and  
14 to use that firearm for traditionally lawful purposes, such as  
15 self-defense within the home;

16 (2) Section 23, Article I, of the Texas Constitution  
17 secures for Texas citizens the right to keep and bear arms;

18 (3) persons who are currently prohibited from  
19 possessing firearms under state and federal law will not gain the  
20 right to possess or carry a firearm under this legislation; and

21 (4) persons who are currently prohibited from  
22 possessing a firearm include: persons convicted of a felony as  
23 described by the provisions of Section 46.04, Penal Code, persons  
24 convicted of certain assault offenses under Section 22.01, Penal

1 Code, punishable as a Class A misdemeanor and involving a member of  
2 the person's family or household, certain persons who are the  
3 subject of a protective order under Section 46.04(c), Penal Code,  
4 and persons meeting any of the criteria listed in 18 U.S.C. Section  
5 922(g), including persons adjudicated to be mentally incompetent.

6 SECTION 3. Article 14.03, Code of Criminal Procedure, is  
7 amended by adding Subsection (h) to read as follows:

8 (h)(1) A peace officer who is acting in the lawful discharge  
9 of the officer's official duties may disarm a person at any time the  
10 officer reasonably believes it is necessary for the protection of  
11 the person, officer, or another individual. The peace officer  
12 shall return the handgun to the person before discharging the  
13 person from the scene if the officer determines that the person is  
14 not a threat to the officer, person, or another individual and if  
15 the person has not committed a violation that results in the arrest  
16 of the person.

17 (2) A peace officer who is acting in the lawful  
18 discharge of the officer's official duties may temporarily disarm a  
19 person when the person enters a nonpublic, secure portion of a law  
20 enforcement facility, if the law enforcement agency provides a gun  
21 locker or other secure area where the peace officer can secure the  
22 person's handgun. The peace officer shall secure the handgun in the  
23 locker or other secure area and shall return the handgun to the  
24 person immediately after the person leaves the nonpublic, secure  
25 portion of the law enforcement facility.

26 (3) For purposes of this subsection, "law enforcement  
27 facility" and "nonpublic, secure portion of a law enforcement



1 facility" have the meanings assigned by Section 411.207, Government  
2 Code.

3 SECTION 4. Article 55.01(a), Code of Criminal Procedure, is  
4 amended to read as follows:

5 (a) A person who has been placed under a custodial or  
6 noncustodial arrest for commission of either a felony or  
7 misdemeanor is entitled to have all records and files relating to  
8 the arrest expunged if:

9 (1) the person is tried for the offense for which the  
10 person was arrested and is:

11 (A) acquitted by the trial court, except as  
12 provided by Subsection (c); ~~or~~

13 (B) convicted and subsequently:

14 (i) pardoned for a reason other than that  
15 described by Subparagraph (ii); or

16 (ii) pardoned or otherwise granted relief  
17 on the basis of actual innocence with respect to that offense, if  
18 the applicable pardon or court order clearly indicates on its face  
19 that the pardon or order was granted or rendered on the basis of the  
20 person's actual innocence; or

21 (C) convicted of an offense committed before  
22 September 1, 2021, under Section 46.02(a), Penal Code, as that  
23 section existed before that date; or

24 (2) the person has been released and the charge, if  
25 any, has not resulted in a final conviction and is no longer pending  
26 and there was no court-ordered community supervision under Chapter  
27 42A for the offense, unless the offense is a Class C misdemeanor,

1 provided that:

2 (A) regardless of whether any statute of  
3 limitations exists for the offense and whether any limitations  
4 period for the offense has expired, an indictment or information  
5 charging the person with the commission of a misdemeanor offense  
6 based on the person's arrest or charging the person with the  
7 commission of any felony offense arising out of the same  
8 transaction for which the person was arrested:

9 (i) has not been presented against the  
10 person at any time following the arrest, and:

11 (a) at least 180 days have elapsed  
12 from the date of arrest if the arrest for which the expunction was  
13 sought was for an offense punishable as a Class C misdemeanor and if  
14 there was no felony charge arising out of the same transaction for  
15 which the person was arrested;

16 (b) at least one year has elapsed from  
17 the date of arrest if the arrest for which the expunction was sought  
18 was for an offense punishable as a Class B or A misdemeanor and if  
19 there was no felony charge arising out of the same transaction for  
20 which the person was arrested;

21 (c) at least three years have elapsed  
22 from the date of arrest if the arrest for which the expunction was  
23 sought was for an offense punishable as a felony or if there was a  
24 felony charge arising out of the same transaction for which the  
25 person was arrested; or

26 (d) the attorney representing the  
27 state certifies that the applicable arrest records and files are

1 not needed for use in any criminal investigation or prosecution,  
2 including an investigation or prosecution of another person; or

3 (ii) if presented at any time following the  
4 arrest, was dismissed or quashed, and the court finds that the  
5 indictment or information was dismissed or quashed because:

6 (a) the person completed a veterans  
7 treatment court program created under Chapter 124, Government Code,  
8 or former law, subject to Subsection (a-3);

9 (b) the person completed a mental  
10 health court program created under Chapter 125, Government Code, or  
11 former law, subject to Subsection (a-4);

12 (c) the person completed a pretrial  
13 intervention program authorized under Section 76.011, Government  
14 Code, other than a veterans treatment court program created under  
15 Chapter 124, Government Code, or former law, or a mental health  
16 court program created under Chapter 125, Government Code, or former  
17 law;

18 (d) the presentment had been made  
19 because of mistake, false information, or other similar reason  
20 indicating absence of probable cause at the time of the dismissal to  
21 believe the person committed the offense; or

22 (e) the indictment or information was  
23 void; or

24 (B) prosecution of the person for the offense for  
25 which the person was arrested is no longer possible because the  
26 limitations period has expired.

27 SECTION 5. Section 2(a), Article 55.02, Code of Criminal

1 Procedure, is amended to read as follows:

2 (a) A person who is entitled to expunction of records and  
3 files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i),  
4 55.01(a)(1)(C), or 55.01(a)(2) or a person who is eligible for  
5 expunction of records and files under Article 55.01(b) may file an  
6 ex parte petition for expunction in a district court for the county  
7 in which:

- 8 (1) the petitioner was arrested; or  
9 (2) the offense was alleged to have occurred.

10 SECTION 6. Section 37.0815(b), Education Code, is amended  
11 to read as follows:

12 (b) This section does not authorize a person to possess,  
13 transport, or store a handgun, a firearm, or ammunition in  
14 violation of Section 37.125 of this code, Section 46.03 [~~or~~  
15 ~~46.035~~], Penal Code, or other law.

16 SECTION 7. Subchapter A, Chapter 411, Government Code, is  
17 amended by adding Sections 411.02096 and 411.02097 to read as  
18 follows:

19 Sec. 411.02096. REPORT REGARDING CERTAIN FIREARM  
20 STATISTICS. (a) Not later than January 31 of each year, the  
21 department shall collect information for the preceding calendar  
22 year related to the carrying of firearms by persons in this state,  
23 including:

- 24 (1) the number of persons who applied for a license to  
25 carry a handgun under Subchapter H compared to the yearly average  
26 number of people who applied for a license from 2010 through 2020;  
27 and

1           (2) any other relevant information related to the  
2 carrying of firearms by persons in this state.

3           (b) The department shall identify the entities that possess  
4 information required by Subsection (a) and require each entity to  
5 report the information to the department in the manner prescribed  
6 by the department.

7           (c) Not later than February 1 of each year, the department  
8 shall prepare and submit to the governor, the lieutenant governor,  
9 and each member of the legislature a report that includes the  
10 information described by Subsection (a).

11           (d) This section expires September 1, 2028.

12           Sec. 411.02097. FIREARM SAFETY. The department shall  
13 develop and post on the department's Internet website a course on  
14 firearm safety and handling. The course must be accessible to the  
15 public free of charge.

16           SECTION 8. Sections 411.186(a), (c), and (d), Government  
17 Code, are amended to read as follows:

18           (a) The department shall revoke a license under this section  
19 if the license holder:

20                   (1) was not entitled to the license at the time it was  
21 issued;

22                   (2) made a material misrepresentation or failed to  
23 disclose a material fact in an application submitted under this  
24 subchapter;

25                   (3) subsequently becomes ineligible for a license  
26 under Section 411.172, unless the sole basis for the ineligibility  
27 is that the license holder is charged with the commission of a Class



1 A or Class B misdemeanor or equivalent offense, or of an offense  
2 under Section 42.01, Penal Code, or equivalent offense, or of a  
3 felony under an information or indictment;

4 (4) [~~is convicted of an offense under Section 46.035,~~  
5 ~~Penal Code,~~

6 [~~5~~] is determined by the department to have engaged  
7 in conduct constituting a reason to suspend a license listed in  
8 Section 411.187(a) after the person's license has been previously  
9 suspended twice for the same reason; or

10 (5) [~~6~~] submits an application fee that is  
11 dishonored or reversed if the applicant fails to submit a cashier's  
12 check or money order made payable to the "Department of Public  
13 Safety of the State of Texas" in the amount of the dishonored or  
14 reversed fee, plus \$25, within 30 days of being notified by the  
15 department that the fee was dishonored or reversed.

16 (c) A license holder whose license is revoked for a reason  
17 listed in Subsections (a)(1)-(4) [~~(a)(1)-(5)~~] may reapply as a new  
18 applicant for the issuance of a license under this subchapter after  
19 the second anniversary of the date of the revocation if the cause  
20 for revocation does not exist on the date of the second anniversary.  
21 If the cause for revocation exists on the date of the second  
22 anniversary after the date of revocation, the license holder may  
23 not apply for a new license until the cause for revocation no longer  
24 exists and has not existed for a period of two years.

25 (d) A license holder whose license is revoked under  
26 Subsection (a)(5) [~~(a)(6)~~] may reapply for an original or renewed  
27 license at any time, provided the application fee and a dishonored

1 payment charge of \$25 is paid by cashier's check or money order made  
2 payable to the "Texas Department of Public Safety."

3 SECTION 9. Section 411.203, Government Code, is amended to  
4 read as follows:

5 Sec. 411.203. RIGHTS OF EMPLOYERS. This subchapter does  
6 not prevent or otherwise limit the right of a public or private  
7 employer to prohibit persons who are licensed under this subchapter  
8 from carrying a handgun on the premises of the business. In this  
9 section, "premises" has the meaning assigned by Section 46.03  
10 [~~46.035(f)(3)~~], Penal Code.

11 SECTION 10. Section 411.2031(a)(3), Government Code, is  
12 amended to read as follows:

13 (3) "Premises" has the meaning assigned by Section  
14 46.03 [~~46.035~~], Penal Code.

15 SECTION 11. Sections 411.209(a) and (j), Government Code,  
16 are amended to read as follows:

17 (a) Except as provided by Subsection (i), a state agency or  
18 a political subdivision of the state may not take any action,  
19 including an action consisting of the provision of notice by a  
20 communication described by Section 30.06 or 30.07, Penal Code, that  
21 states or implies that a license holder who is carrying a handgun  
22 under the authority of this subchapter is prohibited from entering  
23 or remaining on a premises or other place owned or leased by the  
24 governmental entity unless license holders are prohibited from  
25 carrying a handgun on the premises or other place by Section 46.03  
26 [~~or 46.035~~], Penal Code, or other law.

27 (j) In this section, "premises" has the meaning assigned by

1 Section 46.03 [~~46.035~~], Penal Code.

2 SECTION 12. Section 552.002(a)(1), Health and Safety Code,  
3 is amended to read as follows:

4 (1) "License holder" has the meaning assigned by  
5 Section 46.03 [~~46.035(f)~~], Penal Code.

6 SECTION 13. Section 773.0145(a), Health and Safety Code, is  
7 amended to read as follows:

8 (a) This section applies to:

9 (1) an amusement park, as defined by Section 46.03  
10 [~~46.035~~], Penal Code;

11 (2) a child-care facility, as defined by Section  
12 42.002, Human Resources Code;

13 (3) a day camp or youth camp, as defined by Section  
14 141.002;

15 (4) a private or independent institution of higher  
16 education, as defined by Section 61.003, Education Code;

17 (5) a restaurant, as defined by Section 17.821,  
18 Business & Commerce Code;

19 (6) a sports venue, as defined by Section 504.151,  
20 Local Government Code;

21 (7) a youth center, as defined by Section 481.134; or

22 (8) subject to Subsection (b), any other entity that  
23 the executive commissioner by rule designates as an entity that  
24 would benefit from the possession and administration of epinephrine  
25 auto-injectors.

26 SECTION 14. Section 42.042(e-2), Human Resources Code, is  
27 amended to read as follows:

1           (e-2) The department may not prohibit the foster parent of a  
2 child who resides in the foster family's home from transporting the  
3 child in a vehicle where a handgun is present if the handgun is in  
4 the possession and control of the foster parent and the foster  
5 parent is not otherwise prohibited by law from carrying a handgun  
6 [~~licensed to carry the handgun under Subchapter H, Chapter 411,~~  
7 ~~Government Code~~].

8           SECTION 15. Section 52.062(b), Labor Code, is amended to  
9 read as follows:

10           (b) Section 52.061 does not prohibit an employer from  
11 prohibiting an employee who holds a license to carry a handgun under  
12 Subchapter H, Chapter 411, Government Code, or who otherwise  
13 lawfully possesses a firearm, from possessing a firearm the  
14 employee is otherwise authorized by law to possess on the premises  
15 of the employer's business. In this subsection, "premises" has the  
16 meaning assigned by Section 46.03 [~~46.035(f)(3)~~], Penal Code.

17           SECTION 16. Section 229.001(b), Local Government Code, is  
18 amended to read as follows:

19           (b) Subsection (a) does not affect the authority a  
20 municipality has under another law to:

21                   (1) require residents or public employees to be armed  
22 for personal or national defense, law enforcement, or another  
23 lawful purpose;

24                   (2) regulate the discharge of firearms or air guns  
25 within the limits of the municipality, other than at a sport  
26 shooting range;

27                   (3) except as provided by Subsection (b-1), adopt or

1 enforce a generally applicable zoning ordinance, land use  
2 regulation, fire code, or business ordinance;

3 (4) regulate the use of firearms, air guns, or knives  
4 in the case of an insurrection, riot, or natural disaster if the  
5 municipality finds the regulations necessary to protect public  
6 health and safety;

7 (5) regulate the storage or transportation of  
8 explosives to protect public health and safety, except that 25  
9 pounds or less of black powder for each private residence and 50  
10 pounds or less of black powder for each retail dealer are not  
11 subject to regulation;

12 (6) regulate the carrying of an air gun or [a] firearm,  
13 ~~[or air gun by a person]~~ other than a ~~[person licensed to carry a]~~  
14 handgun carried by a person not otherwise prohibited by law from  
15 carrying a handgun [under Subchapter H, Chapter 411, Government  
16 ~~Code],~~ at a:

17 (A) public park;

18 (B) public meeting of a municipality, county, or  
19 other governmental body;

20 (C) political rally, parade, or official  
21 political meeting; or

22 (D) nonfirearms-related school, college, or  
23 professional athletic event;

24 (7) regulate the carrying of a firearm by a person  
25 licensed to carry a handgun under Subchapter H, Chapter 411,  
26 Government Code, in accordance with Section 411.209, Government  
27 Code;



1           (8) regulate the hours of operation of a sport  
2 shooting range, except that the hours of operation may not be more  
3 limited than the least limited hours of operation of any other  
4 business in the municipality other than a business permitted or  
5 licensed to sell or serve alcoholic beverages for on-premises  
6 consumption;

7           (9) regulate the carrying of an air gun by a minor on:

8                   (A) public property; or

9                   (B) private property without consent of the  
10 property owner; or

11           (10) except as provided by Subsection (d-1), regulate  
12 or prohibit an employee's carrying or possession of a firearm,  
13 firearm accessory, or ammunition in the course of the employee's  
14 official duties.

15           SECTION 17. Section 30.05, Penal Code, is amended by adding  
16 Subsections (c) and (d-3) and amending Subsections (d) and (f) to  
17 read as follows:

18           (c) A person may provide notice that firearms are prohibited  
19 on the property by posting a sign at each entrance to the property  
20 that:

21                   (1) includes language that is identical to or  
22 substantially similar to the following: "Pursuant to Section 30.05,  
23 Penal Code (criminal trespass), a person may not enter this  
24 property with a firearm";

25                   (2) includes the language described by Subdivision (1)  
26 in both English and Spanish;

27                   (3) appears in contrasting colors with block letters

1 at least one inch in height; and

2 (4) is displayed in a conspicuous manner clearly  
3 visible to the public.

4 (d) Subject to Subsection (d-3), an [Aa] offense under this  
5 section is:

6 (1) a Class B misdemeanor, except as provided by  
7 Subdivisions (2) and (3);

8 (2) a Class C misdemeanor, except as provided by  
9 Subdivision (3), if the offense is committed:

10 (A) on agricultural land and within 100 feet of  
11 the boundary of the land; or

12 (B) on residential land and within 100 feet of a  
13 protected freshwater area; and

14 (3) a Class A misdemeanor if:

15 (A) the offense is committed:

16 (i) in a habitation or a shelter center;

17 (ii) on a Superfund site; or

18 (iii) on or in a critical infrastructure  
19 facility;

20 (B) the offense is committed on or in property of  
21 an institution of higher education and it is shown on the trial of  
22 the offense that the person has previously been convicted of:

23 (i) an offense under this section relating  
24 to entering or remaining on or in property of an institution of  
25 higher education; or

26 (ii) an offense under Section 51.204(b)(1),  
27 Education Code, relating to trespassing on the grounds of an

1 institution of higher education; or

2 (C) the person carries a deadly weapon during the  
3 commission of the offense.

4 (d-3) An offense under this section is a Class C misdemeanor  
5 punishable by a fine not to exceed \$200 if the person enters the  
6 property, land, or building with a firearm or other weapon and the  
7 sole basis on which entry on the property or land or in the building  
8 was forbidden is that entry with a firearm or other weapon was  
9 forbidden, except that the offense is a Class A misdemeanor if it is  
10 shown on the trial of the offense that, after entering the property,  
11 land, or building with the firearm or other weapon, the actor:

12 (1) personally received from the owner of the property  
13 or another person with apparent authority to act for the owner  
14 notice that entry with a firearm or other weapon was forbidden, as  
15 given through:

16 (A) notice under Subsection (b)(2)(A), including  
17 oral or written communication; or

18 (B) if the actor is unable to reasonably  
19 understand the notice described by Paragraph (A), other personal  
20 notice that is reasonable under the circumstances; and

21 (2) subsequently failed to depart.

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

23 (1) the basis on which entry on the property or land or  
24 in the building was forbidden is that entry with a handgun was  
25 forbidden; and

26 (2) the person was carrying:

27 (A) a license issued under Subchapter H, Chapter

1 411, Government Code, to carry a handgun; and

2 (B) a handgun:

3 (i) in a concealed manner; or

4 (ii) in a [~~shoulder or belt~~] holster.

5 SECTION 18. Section 30.06(c)(2), Penal Code, is amended to  
6 read as follows:

7 (2) "License holder" has the meaning assigned by  
8 Section 46.03 [~~46.035(f)~~].

9 SECTION 19. Section 30.06(e), Penal Code, is amended to  
10 read as follows:

11 (e) It is an exception to the application of this section  
12 that the property on which the license holder carries a handgun is  
13 owned or leased by a governmental entity and is not a premises or  
14 other place on which the license holder is prohibited from carrying  
15 the handgun under Section 46.03 [~~or 46.035~~].

16 SECTION 20. Section 30.07(c)(2), Penal Code, is amended to  
17 read as follows:

18 (2) "License holder" has the meaning assigned by  
19 Section 46.03 [~~46.035(f)~~].

20 SECTION 21. Sections 30.07(e) and (f), Penal Code, are  
21 amended to read as follows:

22 (e) It is an exception to the application of this section  
23 that the property on which the license holder openly carries the  
24 handgun is owned or leased by a governmental entity and is not a  
25 premises or other place on which the license holder is prohibited  
26 from carrying the handgun under Section 46.03 [~~or 46.035~~].

27 (f) It is not a defense to prosecution under this section

1 that the handgun was carried in a [~~shoulder or belt~~] holster.

2 SECTION 22. Section 46.02, Penal Code, is amended by  
3 amending Subsections (a), (a-1), and (b) and adding Subsections  
4 (a-5), (a-6), (a-7), (a-8), and (e) to read as follows:

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

6 (1) intentionally, knowingly, or recklessly carries  
7 on or about his or her person a handgun; [~~and~~]

8 (2) at the time of the offense:

9 (A) is younger than 21 years of age; or

10 (B) has been convicted of an offense under  
11 Section 22.01(a)(1), 22.05, 22.07, or 42.01(a)(7) or (8) committed  
12 in the five-year period preceding the date the instant offense was  
13 committed; and

14 (3) is not:

15 (A) on the person's own premises or premises  
16 under the person's control; or

17 (B) inside of or directly en route to a motor  
18 vehicle or watercraft that is owned by the person or under the  
19 person's control.

20 (a-1) A person commits an offense if the person  
21 intentionally, knowingly, or recklessly carries on or about his or  
22 her person a handgun in a motor vehicle or watercraft that is owned  
23 by the person or under the person's control at any time in which:

24 (1) the handgun is in plain view, unless the person is  
25 21 years of age or older or is licensed to carry a handgun under  
26 Subchapter H, Chapter 411, Government Code, and the handgun is  
27 carried in a [~~shoulder or belt~~] holster; or



1 (2) the person is:

2 (A) engaged in criminal activity, other than a  
3 Class C misdemeanor that is a violation of a law or ordinance  
4 regulating traffic or boating; or

5 (B) prohibited by law from possessing a firearm[+  
6 ~~or~~

7 [~~(C) a member of a criminal street gang, as~~  
8 ~~defined by Section 71.01].~~

9 (a-5) A person commits an offense if the person carries a  
10 handgun and intentionally displays the handgun in plain view of  
11 another person in a public place. It is an exception to the  
12 application of this subsection that the handgun was partially or  
13 wholly visible but was carried in a holster.

14 (a-6) A person commits an offense if the person:

15 (1) carries a handgun while the person is intoxicated;  
16 and

17 (2) is not:

18 (A) on the person's own property or property  
19 under the person's control or on private property with the consent  
20 of the owner of the property; or

21 (B) inside of or directly en route to a motor  
22 vehicle or watercraft:

23 (i) that is owned by the person or under the  
24 person's control; or

25 (ii) with the consent of the owner or  
26 operator of the vehicle or watercraft.

27 (a-7) A person commits an offense if the person:

1           (1) intentionally, knowingly, or recklessly carries  
2 on or about his or her person a handgun;

3           (2) is not:

4           (A) on the person's own premises or premises  
5 under the person's control; or

6           (B) inside of or directly en route to a motor  
7 vehicle or watercraft that is owned by the person or under the  
8 person's control; and

9           (3) at the time of the offense, was prohibited from  
10 possessing a firearm under Section 46.04(a), (b), or (c).

11           (a-8) If conduct constituting an offense under Subsection  
12 (a-7) constitutes an offense under another provision of law, the  
13 actor may be prosecuted under Subsection (a-7) or under both  
14 provisions.

15           (b) Except as provided by Subsection [~~(e) or~~] (d) or (e), an  
16 offense under this section is a Class A misdemeanor.

17           (e) An offense under Subsection (a-7) is:

18           (1) a felony of the second degree with a minimum term  
19 of imprisonment of five years, if the actor was prohibited from  
20 possessing a firearm under Section 46.04(a); or

21           (2) a felony of the third degree, if the actor was  
22 prohibited from possessing a firearm under Section 46.04(b) or (c).

23           SECTION 23. Section 46.03, Penal Code, is amended by  
24 amending Subsections (a), (c), (e-1), (e-2), and (g) and adding  
25 Subsections (a-2), (a-3), (a-4), and (g-2) to read as follows:

26           (a) A person commits an offense if the person intentionally,  
27 knowingly, or recklessly possesses or goes with a firearm,

1 location-restricted knife, club, or prohibited weapon listed in  
2 Section 46.05(a):

3 (1) on the physical premises of a school or  
4 educational institution, any grounds or building on which an  
5 activity sponsored by a school or educational institution is being  
6 conducted, or a passenger transportation vehicle of a school or  
7 educational institution, whether the school or educational  
8 institution is public or private, unless:

9 (A) pursuant to written regulations or written  
10 authorization of the institution; or

11 (B) the person possesses or goes with a concealed  
12 handgun that the person is licensed to carry under Subchapter H,  
13 Chapter 411, Government Code, and no other weapon to which this  
14 section applies, on the premises of an institution of higher  
15 education or private or independent institution of higher  
16 education, on any grounds or building on which an activity  
17 sponsored by the institution is being conducted, or in a passenger  
18 transportation vehicle of the institution;

19 (2) on the premises of a polling place on the day of an  
20 election or while early voting is in progress;

21 (3) on the premises of any government court or offices  
22 utilized by the court, unless pursuant to written regulations or  
23 written authorization of the court;

24 (4) on the premises of a racetrack;

25 (5) in or into a secured area of an airport; [~~or~~]

26 (6) within 1,000 feet of premises the location of  
27 which is designated by the Texas Department of Criminal Justice as a

1 place of execution under Article 43.19, Code of Criminal Procedure,  
2 on a day that a sentence of death is set to be imposed on the  
3 designated premises and the person received notice that:

4 (A) going within 1,000 feet of the premises with  
5 a weapon listed under this subsection was prohibited; or

6 (B) possessing a weapon listed under this  
7 subsection within 1,000 feet of the premises was prohibited;

8 (7) on the premises of a business that has a permit or  
9 license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic  
10 Beverage Code, if the business derives 51 percent or more of its  
11 income from the sale or service of alcoholic beverages for  
12 on-premises consumption, as determined by the Texas Alcoholic  
13 Beverage Commission under Section 104.06, Alcoholic Beverage Code;

14 (8) on the premises where a high school, collegiate,  
15 or professional sporting event or interscholastic event is taking  
16 place, unless the person is a participant in the event and a  
17 firearm, location-restricted knife, club, or prohibited weapon  
18 listed in Section 46.05(a) is used in the event;

19 (9) on the premises of a correctional facility;

20 (10) on the premises of a civil commitment facility;

21 (11) on the premises of a hospital licensed under  
22 Chapter 241, Health and Safety Code, or on the premises of a nursing  
23 facility licensed under Chapter 242, Health and Safety Code, unless  
24 the person has written authorization of the hospital or nursing  
25 facility administration, as appropriate;

26 (12) on the premises of a mental hospital, as defined  
27 by Section 571.003, Health and Safety Code, unless the person has

1 written authorization of the mental hospital administration;

2 (13) in an amusement park; or

3 (14) in the room or rooms where a meeting of a  
4 governmental entity is held, if the meeting is an open meeting  
5 subject to Chapter 551, Government Code, and if the entity provided  
6 notice as required by that chapter.

7 (a-2) Notwithstanding Section 46.02(a-5), a license holder  
8 commits an offense if the license holder carries a partially or  
9 wholly visible handgun, regardless of whether the handgun is  
10 holstered, on or about the license holder's person under the  
11 authority of Subchapter H, Chapter 411, Government Code, and  
12 intentionally or knowingly displays the handgun in plain view of  
13 another person:

14 (1) on the premises of an institution of higher  
15 education or private or independent institution of higher  
16 education; or

17 (2) on any public or private driveway, street,  
18 sidewalk or walkway, parking lot, parking garage, or other parking  
19 area of an institution of higher education or private or  
20 independent institution of higher education.

21 (a-3) Notwithstanding Subsection (a) or Section 46.02(a-5),  
22 a license holder commits an offense if the license holder carries a  
23 handgun on the campus of a private or independent institution of  
24 higher education in this state that has established rules,  
25 regulations, or other provisions prohibiting license holders from  
26 carrying handguns pursuant to Section 411.2031(e), Government  
27 Code, or on the grounds or building on which an activity sponsored

1 by such an institution is being conducted, or in a passenger  
2 transportation vehicle of such an institution, regardless of  
3 whether the handgun is concealed, provided the institution gives  
4 effective notice under Section 30.06.

5 (a-4) Notwithstanding Subsection (a) or Section 46.02(a-5),  
6 a license holder commits an offense if the license holder  
7 intentionally carries a concealed handgun on a portion of a  
8 premises located on the campus of an institution of higher  
9 education in this state on which the carrying of a concealed handgun  
10 is prohibited by rules, regulations, or other provisions  
11 established under Section 411.2031(d-1), Government Code, provided  
12 the institution gives effective notice under Section 30.06 with  
13 respect to that portion.

14 (c) In this section:

15 (1) "Amusement park" means a permanent indoor or  
16 outdoor facility or park where amusement rides are available for  
17 use by the public that is located in a county with a population of  
18 more than one million, encompasses at least 75 acres in surface  
19 area, is enclosed with access only through controlled entries, is  
20 open for operation more than 120 days in each calendar year, and has  
21 security guards on the premises at all times. The term does not  
22 include any public or private driveway, street, sidewalk or  
23 walkway, parking lot, parking garage, or other parking area.

24 (2) "Institution of higher education" and "private or  
25 independent institution of higher education" have the meanings  
26 assigned by Section 61.003, Education Code.

27 (3) "License holder" means a person licensed to carry

1 a handgun under Subchapter H, Chapter 411, Government Code.

2 (4) "Premises" means a building or a portion of a  
3 building. The term does not include any public or private driveway,  
4 street, sidewalk or walkway, parking lot, parking garage, or other  
5 parking area.

6 (5) [~~2~~] "Amusement park" and "premises" have the  
7 meanings assigned by Section 46.035.

8 [~~3~~] "Secured area" means an area of an airport  
9 terminal building to which access is controlled by the inspection  
10 of persons and property under federal law.

11 (e-1) It is a defense to prosecution under Subsection (a)(5)  
12 that the actor:

13 (1) possessed, at the screening checkpoint for the  
14 secured area, a [~~concealed~~] handgun that the actor was licensed to  
15 carry under Subchapter H, Chapter 411, Government Code; and

16 (2) exited the screening checkpoint for the secured  
17 area immediately upon completion of the required screening  
18 processes and notification that the actor possessed the handgun.

19 (e-2) A peace officer investigating conduct that may  
20 constitute an offense under Subsection (a)(5) and that consists  
21 only of an actor's possession of a [~~concealed~~] handgun that the  
22 actor is licensed to carry under Subchapter H, Chapter 411,  
23 Government Code, may not arrest the actor for the offense unless:

24 (1) the officer advises the actor of the defense  
25 available under Subsection (e-1) and gives the actor an opportunity  
26 to exit the screening checkpoint for the secured area; and

27 (2) the actor does not immediately exit the checkpoint

1 upon completion of the required screening processes.

2 (g) Except as provided by Subsections [~~Subsection~~] (g-1)  
3 and (g-2), an offense under this section is a felony of the third  
4 degree.

5 (g-2) An offense committed under Subsection (a)(8),  
6 (a)(10), (a)(11), (a)(13), (a-2), (a-3), or (a-4) is a Class A  
7 misdemeanor.

8 SECTION 24. Section 46.04, Penal Code, is amended by adding  
9 Subsection (a-1) and amending Subsection (e) to read as follows:

10 (a-1) A person who is a member of a criminal street gang, as  
11 defined by Section 71.01, commits an offense if the person  
12 intentionally, knowingly, or recklessly carries on or about his or  
13 her person a handgun in a motor vehicle or watercraft.

14 (e) An offense under Subsection (a) is a felony of the third  
15 degree. An offense under Subsection (a-1), (b), or (c) is a Class A  
16 misdemeanor.

17 SECTION 25. Section 46.15, Penal Code, is amended by  
18 amending Subsections (b), (j), and (l) and adding Subsections (m),  
19 (n), (o), (p), and (q) to read as follows:

20 (b) Sections [~~Section~~] 46.02, 46.03(a)(14), and 46.04(a-1)  
21 do [~~does~~] not apply to a person who:

22 (1) is in the actual discharge of official duties as a  
23 member of the armed forces or state military forces as defined by  
24 Section 437.001, Government Code, or as a guard employed by a penal  
25 institution;

26 (2) is traveling;

27 (3) is engaging in lawful hunting, fishing, or other



1 sporting activity on the immediate premises where the activity is  
2 conducted, or is en route between the premises and the actor's  
3 residence, motor vehicle, or watercraft, if the weapon is a type  
4 commonly used in the activity;

5 (4) holds a security officer commission issued by the  
6 Texas Private Security Board, if the person is engaged in the  
7 performance of the person's duties as an officer commissioned under  
8 Chapter 1702, Occupations Code, or is traveling to or from the  
9 person's place of assignment and is wearing the officer's uniform  
10 and carrying the officer's weapon in plain view;

11 (5) acts as a personal protection officer and carries  
12 the person's security officer commission and personal protection  
13 officer authorization, if the person:

14 (A) is engaged in the performance of the person's  
15 duties as a personal protection officer under Chapter 1702,  
16 Occupations Code, or is traveling to or from the person's place of  
17 assignment; and

18 (B) is either:

19 (i) wearing the uniform of a security  
20 officer, including any uniform or apparel described by Section  
21 1702.323(d), Occupations Code, and carrying the officer's weapon in  
22 plain view; or

23 (ii) not wearing the uniform of a security  
24 officer and carrying the officer's weapon in a concealed manner;

25 (6) is carrying:

26 (A) a license issued under Subchapter H, Chapter  
27 411, Government Code, to carry a handgun; and

1 (B) a handgun:

2 (i) in a concealed manner; or

3 (ii) in a [~~shoulder or belt~~] holster;

4 (7) holds an alcoholic beverage permit or license or  
5 is an employee of a holder of an alcoholic beverage permit or  
6 license if the person is supervising the operation of the permitted  
7 or licensed premises; or

8 (8) is a student in a law enforcement class engaging in  
9 an activity required as part of the class, if the weapon is a type  
10 commonly used in the activity and the person is:

11 (A) on the immediate premises where the activity  
12 is conducted; or

13 (B) en route between those premises and the  
14 person's residence and is carrying the weapon unloaded.

15 (j) The provisions of Sections [~~Section~~] 46.02 and  
16 46.03(a)(7), (a-2), (a-3), and (a-4) [~~prohibiting the carrying of a~~  
17 ~~handgun~~] do not apply to an individual who carries a handgun as a  
18 participant in a historical reenactment performed in accordance  
19 with the rules of the Texas Alcoholic Beverage Commission.

20 (l) Sections 46.02 and [~~7~~] 46.03(a)(1), (a)(2), (a)(3), and  
21 (a)(4) [~~and 46.035(a), (a-1), (a-2), (a-3), (b)(1), (b)(5), and~~  
22 ~~(b)(6)~~] do not apply to a person who carries a handgun if:

23 (1) the person carries the handgun on the premises, as  
24 defined by the statute providing the applicable offense, of a  
25 location operating as an emergency shelter during a state of  
26 disaster declared under Section 418.014, Government Code, or a  
27 local state of disaster declared under Section 418.108, Government

1 Code;

2 (2) the owner, controller, or operator of the premises  
3 or a person acting with the apparent authority of the owner,  
4 controller, or operator, authorized the carrying of the handgun;

5 (3) the person carrying the handgun complies with any  
6 rules and regulations of the owner, controller, or operator of the  
7 premises that govern the carrying of a handgun on the premises; and

8 (4) the person is not prohibited by state or federal  
9 law from possessing a firearm.

10 (m) It is a defense to prosecution under Section 46.03 that  
11 the actor:

12 (1) carries a handgun on a premises or other property  
13 on which the carrying of a weapon is prohibited under that section;

14 (2) personally received from the owner of the  
15 property, or from another person with apparent authority to act for  
16 the owner, notice that carrying a firearm or other weapon on the  
17 premises or other property, as applicable, was prohibited; and

18 (3) promptly departed from the premises or other  
19 property.

20 (n) The defense provided by Subsection (m) does not apply  
21 if:

22 (1) a sign described by Subsection (o) was posted  
23 prominently at each entrance to the premises or other property, as  
24 applicable; or

25 (2) at the time of the offense, the actor knew that  
26 carrying a firearm or other weapon on the premises or other property  
27 was prohibited.

1       (o) A person may provide notice that firearms and other  
2 weapons are prohibited under Section 46.03 on the premises or other  
3 property, as applicable, by posting a sign at each entrance to the  
4 premises or other property that:

5           (1) includes language that is identical to or  
6 substantially similar to the following: "Pursuant to Section 46.03,  
7 Penal Code (places weapons prohibited), a person may not carry a  
8 firearm or other weapon on this property";

9           (2) includes the language described by Subdivision (1)  
10 in both English and Spanish;

11           (3) appears in contrasting colors with block letters  
12 at least one inch in height; and

13           (4) is displayed in a conspicuous manner clearly  
14 visible to the public.

15       (p) Sections 46.03(a)(7), (11), and (13) do not apply if the  
16 actor:

17           (1) carries a handgun on the premises or other  
18 property, as applicable;

19           (2) holds a license to carry a handgun issued under  
20 Subchapter H, Chapter 411, Government Code; and

21           (3) was not given effective notice under Section 30.06  
22 or 30.07 of this code or Section 411.204, Government Code, as  
23 applicable.

24       (q) Section 46.03(a)(8) does not apply if the actor:

25           (1) carries a handgun on a premises where a collegiate  
26 sporting event is taking place;

27           (2) holds a license to carry a handgun issued under

1 Subchapter H, Chapter 411, Government Code; and  
2 (3) was not given effective notice under Section 30.06  
3 or 30.07 of this code, as applicable.

4 SECTION 26. The following provisions are repealed:

- 5 (1) Section 11.041, Alcoholic Beverage Code;
- 6 (2) Section 11.61(e), Alcoholic Beverage Code;
- 7 (3) Section 61.11, Alcoholic Beverage Code;
- 8 (4) Section 61.71(f), Alcoholic Beverage Code;
- 9 (5) Section 411.198(b), Government Code;
- 10 (6) Section 411.204(d), Government Code;
- 11 (7) Section 411.206(c), Government Code;
- 12 (8) Section 46.02(c), Penal Code;
- 13 (9) Section 46.03(a-1), Penal Code; and
- 14 (10) Section 46.035, Penal Code.

15 SECTION 27. Notwithstanding Section 411.02096, Government  
16 Code, as added by this Act, the Department of Public Safety is not  
17 required to submit the initial report required by that section  
18 before February 1, 2023.

19 SECTION 28. The changes in law made by this Act apply only  
20 to an offense committed on or after the effective date of this Act.  
21 An offense committed before the effective date of this Act is  
22 governed by the law in effect on the date the offense was committed,  
23 and the former law is continued in effect for that purpose. For  
24 purposes of this section, an offense was committed before the  
25 effective date of this Act if any element of the offense occurred  
26 before that date.

27 SECTION 29. This Act takes effect September 1, 2021.

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SECTION 1. Short title.

SECTION 1. Same as House version.

SECTION 1. Same as House version.

SECTION 2. Legislative findings.

SECTION 2. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Article 14.03, Code of Criminal Procedure, is amended. Among other provisions, Subsection (h)(2) is added to read as follows:

SECTION 3. Same as House version except as follows:

SECTION 3. Same as Senate version.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person when the person enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker where the peace officer can secure the person's handgun. The peace officer shall secure the handgun in the locker and shall return the handgun to the person immediately after the person leaves the nonpublic, secure portion of the law enforcement facility.

(2) A peace officer who is acting in the lawful discharge of the officer's official duties may temporarily disarm a person when the person enters a nonpublic, secure portion of a law enforcement facility, if the law enforcement agency provides a gun locker *or other secure area* where the peace officer can secure the person's handgun. The peace officer shall secure the handgun in the locker *or other secure area* and shall return the handgun to the person immediately after the person leaves the nonpublic, secure portion of the law enforcement facility. [FA1(1)]

*No equivalent provision.*

SECTION \_\_. Article 42A.054(a), Code of Criminal Procedure, is amended. [FA8(5)]

Same as House version.

SECTION 4. Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

*No equivalent provision.* SECTION 4. [Deleted by FA18]

SECTION 4. Article 55.01(a), Code of Criminal Procedure, is amended to read as follows:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(a) A person who has been placed under a custodial or noncustodial arrest for commission of either a felony or misdemeanor is entitled to have all records and files relating to the arrest expunged if:

(1) the person is tried for the offense for which the person was arrested and is:

(1) the person is tried for the offense for which the person was arrested and is:

(A) acquitted by the trial court, except as provided by Subsection (c); or

(A) acquitted by the trial court, except as provided by Subsection (c); [ø]

(B) convicted and subsequently:

(B) convicted and subsequently:

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(i) pardoned for a reason other than that described by Subparagraph (ii); [øø]

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

**(iii) the statute prohibiting the conduct has been repealed and the offense of which the person was convicted is an offense related solely to the unlawful possession of a firearm; or**

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Chapter 42A for the offense, unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested:

(i) has not been presented against the person at any time following the arrest, and:

(a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an

(i) pardoned for a reason other than that described by Subparagraph (ii); or

(ii) pardoned or otherwise granted relief on the basis of actual innocence with respect to that offense, if the applicable pardon or court order clearly indicates on its face that the pardon or order was granted or rendered on the basis of the person's actual innocence; or

**(C) convicted of an offense committed before September 1, 2021, under Section 46.02(a), Penal Code, as that section existed before that date; or**

(2) the person has been released and the charge, if any, has not resulted in a final conviction and is no longer pending and there was no court-ordered community supervision under Chapter 42A for the offense, unless the offense is a Class C misdemeanor, provided that:

(A) regardless of whether any statute of limitations exists for the offense and whether any limitations period for the offense has expired, an indictment or information charging the person with the commission of a misdemeanor offense based on the person's arrest or charging the person with the commission of any felony offense arising out of the same transaction for which the person was arrested:

(i) has not been presented against the person at any time following the arrest, and:

(a) at least 180 days have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a Class C misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(b) at least one year has elapsed from the date of arrest if the arrest for which the expunction was sought was for an

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offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or

(d) the attorney representing the state certifies that the applicable arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person; or

(ii) if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because:

(a) the person completed a veterans treatment court program created under Chapter 124, Government Code, or former law, subject to Subsection (a-3);

(b) the person completed a mental health court program created under Chapter 125, Government Code, or former law, subject to Subsection (a-4);

(c) the person completed a pretrial intervention program authorized under Section 76.011, Government Code, other than a veterans treatment court program created under Chapter 124, Government Code, or former law, or a mental health court program created under Chapter 125, Government Code, or former law;

(d) the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense; or

(e) the indictment or information was void; or

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offense punishable as a Class B or A misdemeanor and if there was no felony charge arising out of the same transaction for which the person was arrested;

(c) at least three years have elapsed from the date of arrest if the arrest for which the expunction was sought was for an offense punishable as a felony or if there was a felony charge arising out of the same transaction for which the person was arrested; or

(d) the attorney representing the state certifies that the applicable arrest records and files are not needed for use in any criminal investigation or prosecution, including an investigation or prosecution of another person; or

(ii) if presented at any time following the arrest, was dismissed or quashed, and the court finds that the indictment or information was dismissed or quashed because:

(a) the person completed a veterans treatment court program created under Chapter 124, Government Code, or former law, subject to Subsection (a-3);

(b) the person completed a mental health court program created under Chapter 125, Government Code, or former law, subject to Subsection (a-4);

(c) the person completed a pretrial intervention program authorized under Section 76.011, Government Code, other than a veterans treatment court program created under Chapter 124, Government Code, or former law, or a mental health court program created under Chapter 125, Government Code, or former law;

(d) the presentment had been made because of mistake, false information, or other similar reason indicating absence of probable cause at the time of the dismissal to believe the person committed the offense; or

(e) the indictment or information was void; or



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(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.

*No equivalent provision.*

Same as House version.

(B) prosecution of the person for the offense for which the person was arrested is no longer possible because the limitations period has expired.

SECTION 5. Section 2(a), Article 55.02, Code of Criminal Procedure, is amended to read as follows:

(a) A person who is entitled to expunction of records and files under Article 55.01(a)(1)(A), 55.01(a)(1)(B)(i), 55.01(a)(1)(C), or 55.01(a)(2) or a person who is eligible for expunction of records and files under Article 55.01(b) may file an ex parte petition for expunction in a district court for the county in which:

- (1) the petitioner was arrested; or
- (2) the offense was alleged to have occurred.

SECTION 5. Section 37.0815(b), Education Code, is amended.

SECTION 5. Same as House version.

SECTION 6. Same as House version.

SECTION 6. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.02096.

SECTION 6. Same as House version, except also adds Section 411.02097 to read as follows:

SECTION 7. Same as Senate version.

**Sec. 411.02097. FIREARM SAFETY. The department shall develop and post on the department's Internet website a course on firearm safety and handling. The course must be accessible to the public free of charge.** [FA14(2)]

SECTIONS 7-9. Sections 411.186, 411.203, and 411.2031, Government Code, are amended.

SECTIONS 7-9. Same as House version.

SECTIONS 8-10. Same as House version.

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SECTION 10. Subchapter H, Chapter 411, Government Code, is amended by adding Section 411.2049 to read as follows:

Sec. 411.2049. CERTAIN INVESTIGATORY STOPS AND INQUIRIES PROHIBITED. A peace officer may not make an investigatory stop or other temporary detention to inquire as to a person's possession of a handgun solely because the person is carrying a partially or wholly visible handgun in a holster.

SECTIONS 11-15. Section 411.209, Government Code, Sections 552.002 and 773.0145, Health and Safety Code, Section 42.042, Human Resources Code, and Section 52.062, Labor Code, are amended.

SECTION 16. Section 229.001(b), Local Government Code, is amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

- (1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;
- (2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;
- (3) except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;
- (4) regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

*No equivalent provision.* SECTION 10. [Deleted by FA18]

SECTIONS 11-15. Same as House version.

SECTION 16. Section 229.001(b), Local Government Code, is amended to read as follows:

(b) Subsection (a) does not affect the authority a municipality has under another law to:

- (1) require residents or public employees to be armed for personal or national defense, law enforcement, or another lawful purpose;
- (2) regulate the discharge of firearms or air guns within the limits of the municipality, other than at a sport shooting range;
- (3) except as provided by Subsection (b-1), adopt or enforce a generally applicable zoning ordinance, land use regulation, fire code, or business ordinance;
- (4) regulate the use of firearms, air guns, or knives in the case of an insurrection, riot, or natural disaster if the municipality finds the regulations necessary to protect public health and safety;

Same as Senate version.

SECTIONS 11-15. Same as House version.

SECTION 16. Same as Senate version.

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(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6) regulate the carrying of an air gun or [a] firearm, [~~or air gun by a person~~] other than a [~~person licensed to carry a~~] handgun carried by a person not otherwise prohibited by law from carrying a handgun [under Subchapter H, Chapter 411, Government Code], at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(7) ~~[regulate the carrying of a firearm by a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code,]~~ in accordance with Section 411.209, Government Code, regulate the carrying of a firearm by *any person*;

(8) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(9) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner;  
or

(5) regulate the storage or transportation of explosives to protect public health and safety, except that 25 pounds or less of black powder for each private residence and 50 pounds or less of black powder for each retail dealer are not subject to regulation;

(6) regulate the carrying of an air gun or [a] firearm, [~~or air gun by a person~~] other than a [~~person licensed to carry a~~] handgun carried by a person not otherwise prohibited by law from carrying a handgun [under Subchapter H, Chapter 411, Government Code], at a:

(A) public park;

(B) public meeting of a municipality, county, or other governmental body;

(C) political rally, parade, or official political meeting; or

(D) nonfirearms-related school, college, or professional athletic event;

(7) regulate the carrying of a firearm by *a person licensed to carry a handgun under Subchapter H, Chapter 411, Government Code*, in accordance with Section 411.209, Government Code; [FA1(2)]

(8) regulate the hours of operation of a sport shooting range, except that the hours of operation may not be more limited than the least limited hours of operation of any other business in the municipality other than a business permitted or licensed to sell or serve alcoholic beverages for on-premises consumption;

(9) regulate the carrying of an air gun by a minor on:

(A) public property; or

(B) private property without consent of the property owner;  
or

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(10) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

(10) except as provided by Subsection (d-1), regulate or prohibit an employee's carrying or possession of a firearm, firearm accessory, or ammunition in the course of the employee's official duties.

SECTION 17. Section 30.05, Penal Code, is amended by amending Subsections (d) and (f) and adding Subsections (d-3) and (f-4) to read as follows:

SECTION 17. Section 30.05, Penal Code, is amended by adding Subsections (c), (d-3), and (f-4) and amending Subsections (d) and (f) to read as follows: [FA12(1);FA13]

SECTION 17. Same as Senate version except as follows:

*No equivalent provision.*

(c) A person may provide notice that firearms are prohibited on the property by posting a sign at each entrance to the property that:

Same as Senate version.

(1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 30.05, Penal Code (criminal trespass), a person may not enter this property with a firearm";

(2) includes the language described by Subdivision (1) in both English and Spanish;

(3) appears in contrasting colors with block letters at least one inch in height; and

(4) is displayed in a conspicuous manner clearly visible to the public. [FA13]

(d) , (d-3), and (f)

Same as House version.

Same as House version.

(f-4) It is a defense to prosecution under this section that:  
(1) the sole basis on which entry on the property or land or in the building was forbidden is that entry with a firearm or other weapon was forbidden; and

*No equivalent provision. (f-4) [Deleted by FA12(2)]*

Same as Senate version.

(2) the actor:

(A) personally received from the owner of the property or another person with apparent authority to act for the owner

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notice that entry with a firearm or other weapon was forbidden, as given through:

(i) notice under Subsection (b)(2)(A), including oral or written communication; or

(ii) if the actor is unable to reasonably understand the notice described by Subparagraph (i), other personal notice that is reasonable under the circumstances; and

(B) promptly departed from the property.

SECTIONS 18-21. Section 30.06(c)(2), Section 30.06(e), Section 30.07(c)(2), and Sections 30.07(e) and (f), Penal Code, are amended.

SECTIONS 18-21. Same as House version.

SECTIONS 18-21. Same as House version.

SECTION 22. Section 46.02, Penal Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsection (a-5) to read as follows:

SECTION 22. Section 46.02, Penal Code, is amended by amending Subsections (a), (a-1), and (b) and adding Subsections (a-5), (a-6), (a-6), (a-7), and (e) to read as follows: [FA7(1);FA8(1)]

SECTION 22. Substantially the same as Senate version.

(a) A person commits an offense if the person:  
(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun; ~~and~~  
(2) is younger than 21 years of age at the time of the offense;  
and

(a) A person commits an offense if the person:  
(1) intentionally, knowingly, or recklessly carries on or about his or her person a handgun; ~~and~~  
(2) at the time of the offense:  
(A) is younger than 21 years of age; or  
(B) has been convicted of an offense under Section 22.01(a)(1), 22.05, 22.07, or 42.01(a)(7) or (8) committed in the five-year period preceding the date the instant offense was committed; and [FA2]

Same as Senate version.

(3) is not:  
(A) on the person's own premises or premises under the person's control; or

(3) is not:  
(A) on the person's own premises or premises under the person's control; or

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(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(B) inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

(a-1) A person younger than 21 years of age commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which:

(a-1) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun in a motor vehicle or watercraft that is owned by the person or under the person's control at any time in which: [FA1(3)]

Same as Senate version.

(1) the handgun is in plain view, unless the person is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a [~~shoulder or belt~~] holster; or

(1) the handgun is in plain view, unless the person is 21 years of age or older or is licensed to carry a handgun under Subchapter H, Chapter 411, Government Code, and the handgun is carried in a [~~shoulder or belt~~] holster; or [FA1(4)]

(2) the person is:

(2) the person is:

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating; or

(A) engaged in criminal activity, other than a Class C misdemeanor that is a violation of a law or ordinance regulating traffic or boating; or

(B) prohibited by law from possessing a firearm[; ~~or~~ [(C) a member of a criminal street gang, as defined by Section 71.01].

(B) prohibited by law from possessing a firearm[; ~~or~~ [(C) a member of a criminal street gang, as defined by Section 71.01].

(a-5)

Same as House version.

Same as House version.

*No equivalent provision.*

(a-6) A person commits an offense if the person:

Same as Senate version.

(1) carries a handgun while the person is intoxicated; and

(2) is not:

(A) on the person's own property or property under the person's control or on private property with the consent of the owner of the property; or

(B) inside of or directly en route to a motor vehicle or watercraft:

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(i) that is owned by the person or under the person's control;  
or  
(ii) with the consent of the owner or operator of the vehicle  
or watercraft. [FA7(2)]

*No equivalent provision.*

(a-6) A person commits an offense if the person:  
(1) intentionally, knowingly, or recklessly carries on or  
about his or her person a handgun;  
(2) is not:  
(A) on the person's own premises or premises under the  
person's control; or  
(B) inside of or directly en route to a motor vehicle or  
watercraft that is owned by the person or under the person's  
control; and  
(3) at the time of the offense, was prohibited from  
possessing a firearm under Section 46.04(a), (b), or (c).  
[FA8(2)]

(a-7) Same as Senate version.

*No equivalent provision.*

(a-7) If conduct constituting an offense under Subsection (a-  
6) constitutes an offense under another provision of law, the  
actor may be prosecuted under Subsection (a-6) or under  
both provisions. [FA8(2)]

(a-8) Substantially the same as Senate version.

(b) Except as provided by Subsection [~~(e)~~-(f)] (d), an offense  
under this section is a Class A misdemeanor.

(b) Except as provided by Subsection [~~(e)~~-(f)] (d) or (e), an  
offense under this section is a Class A misdemeanor.  
[FA8(3)]

Same as Senate version.

*No equivalent provision.*

(e) An offense under Subsection (a-6) is:  
(1) a felony of the second degree with a minimum term of  
imprisonment of five years, if the actor was prohibited from  
possessing a firearm under Section 46.04(a); or

Substantially the same as Senate version.

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(2) a felony of the third degree, if the actor was prohibited from possessing a firearm under Section 46.04(b) or (c).  
[FA8(4)]

SECTIONS 23-24. Sections 46.03 and 46.04, Penal Code, are amended.

SECTIONS 23-24. Same as House version.

SECTIONS 23-24. Same as House version.

SECTION 25. Section 46.15, Penal Code, is amended by amending Subsections (b) and (l) and adding Subsection (m) to read as follows:

SECTION 25. Sections 46.15(b) and (l), Penal Code, are amended to read as follows: [FA12(3)]

SECTION 25. Section 46.15, Penal Code, is amended by amending Subsections (b), (j), and (l) and adding Subsections (m), (n), (o), (p), and (q) to read as follows:

(b)

Same as House version.

Same as House version.

*No equivalent provision.*

Same as House version.

(j) The provisions of Sections [Section] 46.02 and 46.03(a)(7), (a-2), (a-3), and (a-4) ~~[prohibiting the carrying of a handgun]~~ do not apply to an individual who carries a handgun as a participant in a historical reenactment performed in accordance with the rules of the Texas Alcoholic Beverage Commission.

(l)

Same as House version.

Same as House version.

(m) Section 46.03 does not apply to a person unless the person:

*No equivalent provision.* (m) [Deleted by FA12(4)]

(m) It is a defense to prosecution under Section 46.03 that the actor:

(1) personally received from the owner of the property or another person with apparent authority to act for the owner notice that carrying a weapon on the property was prohibited, as given through:

(1) carries a handgun on a premises or other property on which the carrying of a weapon is prohibited under that section;

(2) personally received from the owner of the property, or from another person with apparent authority to act for the owner, notice that carrying a *firearm or other* weapon on the



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(A) oral or written communication; or  
(B) if the person is unable to reasonably understand the communication described by Paragraph (A), other personal notice that is reasonable under the circumstances; and  
(2) subsequently failed to depart.

*No equivalent provision.*

Same as House version.

*No equivalent provision.*

Same as House version.

premises or other property, as applicable, was prohibited;  
and  
(3) promptly departed from the premises or other property.

(n) The defense provided by Subsection (m) does not apply if:  
(1) a sign described by Subsection (o) was posted prominently at each entrance to the premises or other property, as applicable; or  
(2) at the time of the offense, the actor knew that carrying a firearm or other weapon on the premises or other property was prohibited.

(o) A person may provide notice that firearms and other weapons are prohibited under Section 46.03 on the premises or other property, as applicable, by posting a sign at each entrance to the premises or other property that:  
(1) includes language that is identical to or substantially similar to the following: "Pursuant to Section 46.03, Penal Code (places weapons prohibited), a person may not carry a firearm or other weapon on this property";  
(2) includes the language described by Subdivision (1) in both English and Spanish;  
(3) appears in contrasting colors with block letters at least one inch in height; and  
(4) is displayed in a conspicuous manner clearly visible to the public.

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<i>No equivalent provision.</i>	Same as House version.	<u>(p) Sections 46.03(a)(7), (11), and (13) do not apply if the actor:</u> <u>(1) carries a handgun on the premises or other property, as applicable;</u> <u>(2) holds a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code; and</u> <u>(3) was not given effective notice under Section 30.06 or 30.07 of this code or Section 411.204, Government Code, as applicable.</u>
<i>No equivalent provision.</i>	Same as House version.	<u>(q) Section 46.03(a)(8) does not apply if the actor:</u> <u>(1) carries a handgun on a premises where a collegiate sporting event is taking place;</u> <u>(2) holds a license to carry a handgun issued under Subchapter H, Chapter 411, Government Code; and</u> <u>(3) was not given effective notice under Section 30.06 or 30.07 of this code, as applicable.</u>
SECTION 26. Repealers.	SECTION 26. Same as House version.	SECTION 26. Same as House version.
SECTION 27. Transition provision.	SECTION 27. Same as House version.	SECTION 27. Same as House version.
SECTION 28. Saving provision.	SECTION 28. Same as House version.	SECTION 28. Same as House version.
SECTION 29. Effective date.	SECTION 29. Same as House version.	SECTION 29. Same as House version.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 22, 2021**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **Conference Committee Report**

The fiscal implications of the bill cannot be determined at this time due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications and due to the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees being unknown.

The bill would amend and repeal various provisions of the Code of Criminal Procedure, the Education Code, the Government Code, the Penal Code, the Health and Safety Code, the Labor Code, and the Alcoholic Beverage Code relating to the carrying of a firearm by a person 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to the carrying, possessing, transporting, or storing of a firearm or other weapon.

Among other provisions, the bill would repeal Penal Code Section 46.035, which relates to the unlawful carrying of a handgun by a license holder, and provide that criminal trespass based on entry with a firearm or other forbidden weapon is a Class C misdemeanor except when the person personally receives notice from the property owner or another person with apparent authority to act for the owner and subsequently fails to depart, in which case the offense is a Class A misdemeanor. The bill would also create certain Class A misdemeanor offenses relating to the carrying of handguns under certain conditions.

According to the Department of Public Safety (DPS), while there has been a steady and significant growth in the License to Carry program, there is a scarcity of data regarding the choices current or future handgun license holders may make regarding their preferences for obtaining a license or renewing a license that is not required. Additionally, public interest in a license to carry is affected by state and national events, which can cause significant increases in the number of applications. Based on the information provided by DPS, the fiscal impact of the bill cannot be determined due to a lack of reliable information to provide a reasonably sound basis for estimating the impact of the bill on the number of license to carry applications.

According to the Comptroller of Public Accounts, the fiscal impact with respect to the creation of new misdemeanor offenses cannot be determined as the number of cases of noncompliance resulting in penalty revenue, costs, fines and fees is unknown. The fiscal impact with respect to the number of licenses to carry applications also cannot be determined.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies and that the costs associated with the bill's provisions concerning a report on on firearm statistics and an online firearm safety and handling course could be absorbed using existing resources.

According to the Texas Commission on Law Enforcement, Department of Family and Protective Services, and

Parks and Wildlife Department, no significant fiscal impact to the State is anticipated. The Office of Court Administration anticipates no significant fiscal impact to the state court system.

**Local Government Impact**

A Class C misdemeanor under the bill is punishable by a fine of not more than \$200. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Other fiscal implication to units of local government cannot be determined at this time.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety, 407 Law Enforcement, 530 Family & Protective Services, 802 Parks and Wildlife Department

**LBB Staff:** JMc, CMA, LBO, KFB, NA, AF, DKN, ANE

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 22, 2021**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate  
Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1927** by Schaefer (relating to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon; creating criminal offenses.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to provisions governing the carrying of a firearm by a person who is 21 years of age or older and not otherwise prohibited by state or federal law from possessing the firearm and to other provisions related to the carrying, possessing, transporting, or storing of a firearm or other weapon. Under the provisions of the bill, certain unlawful carrying of a handgun felony offenses would be repealed, unlawful carrying of a weapon offenses would be enhanced in certain circumstances, and the circumstances for certain other offenses would be modified. Under existing statute, unlawful carrying of a handgun by a license holder, unlawful carrying of a weapon, or unlawful possession of a firearm are punishable as a misdemeanor or felony based on the specific circumstances of the offense.

A second degree felony is punishable by confinement in prison for a term from 2 to 20 years and a third degree felony is punishable by confinement in prison for a term from 2 to 10 years. In addition to confinement, most felonies are subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Repealing or reducing the circumstances of felony offenses is expected to result in fewer demands upon the correctional resources of counties or of the State due to a decrease in the number of individuals placed onto supervision in the community or sentenced to a term of confinement within state correctional institutions while creating new offenses, expanding the circumstances for an offense, or enhancing the criminal penalty for offenses is expected to result in increased demands. From fiscal years 2018 through 2020, an average of 346 people were arrested, 23 were placed onto felony direct community supervision, and fewer than ten were admitted into a state correctional institution for the felony weapon and handgun related offenses modified in the bill under existing statute. Of those, an average of fewer than ten younger than 21 years at the time of offense were placed on felony direct community supervision or admitted into a state correctional institution for the third degree felony offense of unlawful carrying of a weapon. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, CMA, LM, SPA



**Certification of Compliance with  
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order.

I certify that a copy of the conference committee report on HB 1927 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before paper copies of the report were submitted to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.

Math Schaefer  
(name)

5/22/21  
(date)