

Tex. Penal Code Ann. § 39.04. Violations of the civil rights of persons in custody; improper sexual activity with person in custody

(a) An official of a correctional facility, an employee of a correctional facility, a person other than an employee who works for compensation at a correctional facility, a volunteer at a correctional facility, or a peace officer commits an offense if the person intentionally:

- (1) denies or impedes a person in custody in the exercise or enjoyment of any right, privilege, or immunity knowing his conduct is unlawful; or
- (2) engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual in custody.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a state jail felony.

(c) This section shall not preclude prosecution for any other offense set out in this code.

(d) The Attorney General of Texas shall have concurrent jurisdiction with law enforcement agencies to investigate violations of this statute involving serious bodily injury or death.

(e) In this section:

- (1) "Correctional facility" means:
 - (A) any place described by Section 1.07(a)(14); or
 - (B) a "secure correctional facility" or "secure detention facility" as defined by Section 51.02, Family Code.
- (2) "Custody" means the detention, arrest, or confinement of an adult offender or the detention or the commitment of a juvenile offender to a facility operated by or under a contract with the Texas Youth Commission or a facility operated by or under contract with a juvenile board.
- (3) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(f) An employee of the Texas Department of Criminal Justice commits an offense if the employee engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who is not the employee's spouse and who the employee knows is under the supervision of the department but not in the custody of the department.

(g) An offense under Subsection (f) is a state jail felony.