

TEXAS ETHICS COMMISSION
CHAPTERS 36 AND 39, PENAL CODE
BRIBERY AND CORRUPT INFLUENCE
ABUSE OF OFFICE



All Amendments Effective on September 1, 2023

(Revised 8/1/2023)

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Promoting Public Confidence in Government

CHAPTERS 36 AND 39, PENAL CODE

BRIBERY AND CORRUPT INFLUENCE; ABUSE OF OFFICE

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PENAL CODE

TITLE 8. OFFENSES AGAINST PUBLIC ADMINISTRATION

CHAPTER 36. BRIBERY AND CORRUPT INFLUENCE

Sec. 36.01. DEFINITIONS. In this chapter:

- (1) "Custody" means:
 - (A) detained or under arrest by a peace officer; or
 - (B) under restraint by a public servant pursuant to an order of a court.
- (2) "Party official" means a person who holds any position or office in a political party, whether by election, appointment, or employment.
- (3) "Benefit" means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.
- (4) "Vote" means to cast a ballot in an election regulated by law.

Sec. 36.02. BRIBERY.

(a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

- (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
- (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
- (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official; or
- (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.

(b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.

(c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

- (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
- (2) the public servant ceases to be a public servant.

(d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit is a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

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

Sec. 36.03. COERCION OF PUBLIC SERVANT OR VOTER.

(a) A person commits an offense if by means of coercion he:

(1) influences or attempts to influence a public servant in a specific exercise of his official power or a specific performance of his official duty or influences or attempts to influence a public servant to violate the public servant's known legal duty; or

(2) influences or attempts to influence a voter not to vote or to vote in a particular manner.

(b) An offense under this section is a Class A misdemeanor unless the coercion is a threat to commit a felony, in which event it is a felony of the third degree.

(c) It is an exception to the application of Subsection (a)(1) of this section that the person who influences or attempts to influence the public servant is a member of the governing body of a governmental entity, and that the action that influences or attempts to influence the public servant is an official action taken by the member of the governing body. For the purposes of this subsection, the term "official action" includes deliberations by the governing body of a governmental entity.

Sec. 36.04. IMPROPER INFLUENCE.

(a) A person commits an offense if he privately addresses a representation, entreaty, argument, or other communication to any public servant who exercises or will exercise official discretion in an adjudicatory proceeding with an intent to influence the outcome of the proceeding on the basis of considerations other than those authorized by law.

(b) For purposes of this section, "adjudicatory proceeding" means any proceeding before a court or any other agency of government in which the legal rights, powers, duties, or privileges of specified parties are determined.

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

Sec. 36.05. TAMPERING WITH WITNESS.

(a) A person commits an offense if, with intent to influence the witness, he offers, confers, or agrees to confer any benefit on a witness or prospective witness in an official proceeding, or he coerces a witness or a prospective witness in an official proceeding:

(1) to testify falsely;

(2) to withhold any testimony, information, document, or thing;

(3) to elude legal process summoning him to testify or supply evidence;

(4) to absent himself from an official proceeding to which he has been legally summoned; or

(5) to abstain from, discontinue, or delay the prosecution of another.

(b) A witness or prospective witness in an official proceeding commits an offense if he knowingly solicits, accepts, or agrees to accept any benefit on the representation or understanding that he will do any of the things specified in Subsection (a).

(c) It is a defense to prosecution under Subsection (a)(5) that the benefit received was:

(1) reasonable restitution for damages suffered by the complaining witness as a result of the offense; and

(2) a result of an agreement negotiated with the assistance or acquiescence of an attorney for the state who represented the state in the case.

(d) An offense under this section is a felony of the third degree, except that if the official proceeding is part of the prosecution of a criminal case, an offense under this section is the same category of offense as the most serious offense charged in that criminal case.

(e) Notwithstanding Subsection (d), if the most serious offense charged is a capital felony, an offense under this section is a felony of the first degree.

(e-1) Notwithstanding Subsection (d), if the underlying official proceeding involves family violence, as defined by Section 71.004, Family Code, an offense under this section is the greater of:

- (1) a felony of the third degree; or
- (2) the most serious offense charged in the criminal case.

(e-2) Notwithstanding Subsections (d) and (e-1), if the underlying official proceeding involves family violence, as defined by Section 71.004, Family Code, and it is shown at the trial of the offense that the defendant has previously been convicted of an offense involving family violence under the laws of this state or another state, an offense under this section is the greater of:

- (1) a felony of the second degree; or
- (2) the most serious offense charged in the criminal case.

(e-3) For purposes of Subsection (a), a person is considered to coerce a witness or prospective witness if the person commits an act of family violence as defined by Section 71.004, Family Code, that is perpetrated, in part, with the intent to cause the witness's or prospective witness's unavailability or failure to comply and the offense is punishable under Subsection (e-1) or (e-2), as applicable.

(f) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.

Sec. 36.06. OBSTRUCTION OR RETALIATION.

(a) A person commits an offense if the person intentionally or knowingly harms or threatens to harm another by an unlawful act:

- (1) in retaliation for or on account of the service or status of another as a:
 - (A) public servant, witness, prospective witness, or informant; or
 - (B) person who has reported or who the actor knows intends to report the occurrence of a crime; or
- (2) to prevent or delay the service of another as a:
 - (A) public servant, witness, prospective witness, or informant; or
 - (B) person who has reported or who the actor knows intends to report the occurrence of a crime.

(a-1) A person commits an offense if the person posts on a publicly accessible website the residence address or telephone number of an individual the actor knows is a public servant or a member of a public servant's family or household with the intent to cause harm or a threat of harm to the individual or a member of the individual's family or household in retaliation for or on account of the service or status of the individual as a public servant.

(b) In this section:

- (1) "Honorably retired peace officer" means a peace officer who:
 - (A) did not retire in lieu of any disciplinary action;
 - (B) was eligible to retire from a law enforcement agency or was ineligible to retire only as a result of an injury received in the course of the officer's employment with the agency; and
 - (C) is entitled to receive a pension or annuity for service as a law enforcement officer or is not entitled to receive a pension or annuity only because the law

enforcement agency that employed the officer does not offer a pension or annuity to its employees.

(2) "Informant" means a person who has communicated information to the government in connection with any governmental function.

(3) "Public servant" has the meaning assigned by Section 1.07, except that the term also includes an honorably retired peace officer.

(c) An offense under this section is a felony of the third degree, except that the offense is a felony of the second degree if:

(1) the victim of the offense was harmed or threatened because of the victim's service or status as a juror; or

(2) the actor's conduct is described by Subsection (a-1) and results in the bodily injury of a public servant or a member of a public servant's family or household.

(d) For purposes of Subsection (a-1), it is prima facie evidence of the intent to cause harm or a threat of harm to an individual the person knows is a public servant or a member of a public servant's family or household if the actor:

(1) receives a written demand from the individual to not disclose the address or telephone number for reasons of safety; and

(2) either:

(A) fails to remove the address or telephone number from the publicly accessible website within a period of 48 hours after receiving the demand; or

(B) reposts the address or telephone number on the same or a different publicly accessible website, or makes the information publicly available through another medium, within a period of four years after receiving the demand, regardless of whether the individual is no longer a public servant.

Sec. 36.07. ACCEPTANCE OF HONORARIUM.

(a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties.

(b) This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

(b-1) Transportation, lodging, and meals described by Subsection (b) are not political contributions as defined by Title 15, Election Code.

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

Sec. 36.08. GIFT TO PUBLIC SERVANT BY PERSON SUBJECT TO HIS JURISDICTION.

(a) A public servant in an agency performing regulatory functions or conducting inspections or investigations commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be subject to regulation, inspection, or investigation by the public servant or his agency.

(b) A public servant in an agency having custody of prisoners commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows to be in his custody or the custody of his agency.

(c) A public servant in an agency carrying on civil or criminal litigation on behalf of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person against whom the public servant knows litigation is pending or contemplated by the public servant or his agency.

(d) A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

(e) A public servant who has judicial or administrative authority, who is employed by or in a tribunal having judicial or administrative authority, or who participates in the enforcement of the tribunal's decision, commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any matter before the public servant or tribunal.

(f) A member of the legislature, the governor, the lieutenant governor, or a person employed by a member of the legislature, the governor, the lieutenant governor, or an agency of the legislature commits an offense if he solicits, accepts, or agrees to accept any benefit from any person.

(g) A public servant who is a hearing examiner employed by an agency performing regulatory functions and who conducts hearings in contested cases commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from any person who is appearing before the agency in a contested case, who is doing business with the agency, or who the public servant knows is interested in any matter before the public servant. The exception provided by Sec. 36.10(b) does not apply to a benefit under this subsection.

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

(i) A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.

Sec. 36.09. OFFERING GIFT TO PUBLIC SERVANT.

(a) A person commits an offense if he offers, confers, or agrees to confer any benefit on a public servant that he knows the public servant is prohibited by law from accepting.

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

Sec. 36.10. NON-APPLICABLE.

(a) Sections 36.08 (Gift to Public Servant) and 36.09 (Offering Gift to Public Servant) do not apply to:

(1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;

(2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

(3) a benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code¹, that is derived from a function in honor or appreciation of the recipient if:

(A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and

(B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

(4) a political contribution as defined by Title 15, Election Code;

(5) a gift, award, or memento to a member of the legislative or executive branch that is required to be reported under Chapter 305, Government Code;

(6) an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code;

(7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

(8) transportation, lodging, and meals described by Section 36.07(b); or

(9) complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered:

(A) to a public servant who is a first responder; and

(B) through a program or clinic that is:

(i) operated by a local bar association or the State Bar of Texas; and

(ii) approved by the head of the agency employing the public servant, if the public servant is employed by an agency.

(b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

(c) Section 36.09 (Offering Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donor is required by law to report those items, reported by the donor in accordance with that law.

(d) Section 36.08 (Gift to Public Servant) does not apply to a gratuity accepted and reported in accordance with Section 11.0262, Parks and Wildlife Code. Section 36.09 (Offering Gift to Public Servant) does not apply to a gratuity that is offered in accordance with Section 11.0262, Parks and Wildlife Code.

(e) In this section, "first responder" means:

(1) a peace officer whose duties include responding rapidly to an emergency;

(2) fire protection personnel, as that term is defined by Section 419.021, Government Code;

(3) a volunteer firefighter who performs firefighting duties on behalf of a political subdivision and who is not serving as a member of the Texas Legislature or holding a statewide elected office;

(4) an ambulance driver; or

(5) an individual certified as emergency medical services personnel by the Department of State Health Services.

¹ V.T.C.A., Election Code § 251.001 et seq.

CHAPTER 39. ABUSE OF OFFICE

Sec. 39.01. DEFINITIONS. In this chapter:

(1) "Law relating to a public servant's office or employment" means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly:

- (A) imposes a duty on the public servant; or
- (B) governs the conduct of the public servant.

(2) "Misuse" means to deal with property contrary to:

- (A) an agreement under which the public servant holds the property;
- (B) a contract of employment or oath of office of a public servant;
- (C) a law, including provisions of the General Appropriations Act

specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

- (D) a limited purpose for which the property is delivered or received.

Sec. 39.015. CONCURRENT JURISDICTION TO PROSECUTE OFFENSES UNDER THIS CHAPTER. With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this chapter.

Sec. 39.02. ABUSE OF OFFICIAL CAPACITY.

(a) A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:

- (1) violates a law relating to the public servant's office or employment; or
- (2) misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor.

(c) An offense under Subsection (a)(2) is:

(1) a Class C misdemeanor if the value of the use of the thing misused is less than \$100;

(2) a Class B misdemeanor if the value of the use of the thing misused is \$100 or more but less than \$750;

(3) a Class A misdemeanor if the value of the use of the thing misused is \$750 or more but less than \$2,500;

(4) a state jail felony if the value of the use of the thing misused is \$2,500 or more but less than \$30,000;

(5) a felony of the third degree if the value of the use of the thing misused is \$30,000 or more but less than \$150,000;

(6) a felony of the second degree if the value of the use of the thing misused is \$150,000 or more but less than \$300,000; or

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 or more.

(d) A discount or award given for travel, such as frequent flyer miles, rental car or hotel discounts, or food coupons, are not things of value belonging to the government for purposes of

this section due to the administrative difficulty and cost involved in recapturing the discount or award for a governmental entity.

(e) If separate transactions that violate Subsection (a)(2) are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the use of the things misused in the transactions may be aggregated in determining the classification of the offense.

(f) The value of the use of a thing of value misused under Subsection (a)(2) may not exceed:

- (1) the fair market value of the thing at the time of the offense; or
- (2) if the fair market value of the thing cannot be ascertained, the cost of replacing the thing within a reasonable time after the offense.

Sec. 39.03. OFFICIAL OPPRESSION.

(a) A public servant acting under color of his office or employment commits an offense if he:

- (1) intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;
- (2) intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or
- (3) intentionally subjects another to sexual harassment.

(b) For purposes of this section, a public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

(c) In this section, "sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

(d) An offense under this section is a Class A misdemeanor, except that an offense is a felony of the third degree if the public servant acted with the intent to impair the accuracy of data reported to the Texas Education Agency through the Public Education Information Management System (PEIMS) described by Sections 48.088 and 48.009, Education Code, under a law requiring that reporting.

Sec. 39.04. VIOLATIONS OF THE CIVIL RIGHTS OF PERSON IN CUSTODY; IMPROPER SEXUAL ACTIVITY WITH PERSON IN CUSTODY OR UNDER SUPERVISION.

(a) An official of a correctional facility or juvenile facility, an employee of a correctional facility or juvenile facility, a person other than an employee who works for compensation at a correctional facility or juvenile facility, a volunteer at a correctional facility or juvenile 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 or, in the case of an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility, employs, authorizes, or induces the individual to engage in sexual conduct or a sexual performance.

Text of subdivision as amended by Acts 2021, 87th Leg., R.S., Ch. 895 (H.B. 3157), Sec. 1.

(b) An offense under Subsection (a)(1) is a felony of the third degree [~~Class A misdemeanor~~]. An offense under Subsection (a)(2) is a [~~state jail~~] felony of the second degree, except that an offense under Subsection (a)(2) is a felony of the first [~~second~~] degree if the offense is committed against:

- (1) an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility; or
- (2) a juvenile offender detained in or committed to a correctional facility.

Text of subdivision as amended by Acts 2021, 87th Leg., R.S., Ch. 939 (S.B. 312), Sec. 1.

(b) An offense under Subsection (a)(1) is a Class A misdemeanor. An offense under Subsection (a)(2) is a [~~state jail felony, except that an offense under Subsection (a)(2) is a~~] felony of the second degree [~~if the offense is committed against~~:

- ~~(1) an individual in the custody of the Texas Juvenile Justice Department or placed in a juvenile facility; or~~
- ~~(2) a juvenile offender detained in or committed to a correctional facility].~~

(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:

Text of subdivision as amended by Acts 2015, 84th Leg., R.S., Ch. 216 (H.B. 511), Sec. 1.

(1) "Correctional facility" means:

- (A) any place described by Section 1.07(a)(14);
- (B) any place or facility designated for the detention of a person suspected of violating a provision of the Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.); or
- (C) a "secure correctional facility" or "secure detention facility" as defined by Section 51.02, Family Code.

Text of subdivision as amended by Acts 2015, 84th Leg., R.S., Ch. 1136 (S.B. 183), Sec. 2.

(1) "Correctional facility" means any place described by Section 1.07(a)(14).

(2) "Custody" means the detention, arrest, or confinement of an adult offender, the detention of a juvenile offender, or the commitment of a juvenile offender to a correctional facility or juvenile facility.

(2-a) "Juvenile facility" means:

- (A) a facility operated by the Texas Juvenile Justice Department or a private vendor under a contract with the Texas Juvenile Justice Department; or
- (B) a facility for the detention or placement of juveniles under juvenile court jurisdiction and that is operated wholly or partly by a juvenile board or another

governmental unit or by a private vendor under a contract with the juvenile board or governmental unit.

(3) "Sexual contact," "sexual intercourse," and "deviate sexual intercourse" have the meanings assigned by Section 21.01.

(4) "Sexual conduct" and "performance" have the meanings assigned by Section 43.25.

(5) "Sexual performance" means any performance or part thereof that includes sexual conduct by an individual.

(f) An employee of the Texas Department of Criminal Justice, the Texas Juvenile Justice Department, a juvenile facility, a local juvenile probation department, or a community supervision and corrections department established under Chapter 76, Government Code, a person other than an employee who works for compensation at a juvenile facility or local juvenile probation department, or a volunteer at a juvenile facility or local juvenile probation department commits an offense if the actor engages in sexual contact, sexual intercourse, or deviate sexual intercourse with an individual who the actor knows is under the supervision of the Texas Department of Criminal Justice, Texas Juvenile Justice Department, probation department, or community supervision and corrections department but not in the custody of the Texas Department of Criminal Justice, Texas Juvenile Justice Department, probation department, or community supervision and corrections department.

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

(h) It is an affirmative defense to prosecution under Subsection (f) that the actor was the spouse of the individual at the time of the offense.

Sec. 39.041. IMPROPER SEXUAL ACTIVITY WITH COMMITTED PERSON.

(a) *In this section, "deviate sexual intercourse," "sexual contact," and "sexual intercourse" have the meanings assigned by Section 21.01.*

(b) *An officer or employee of the Texas Civil Commitment Office, a person who contracts with this state to perform a service in a civil commitment facility or an employee of that person, or a volunteer at a civil commitment facility commits an offense if the person intentionally engages in deviate sexual intercourse, sexual contact, or sexual intercourse with a person committed to a civil commitment facility.*

(c) *An offense under this section is a felony of the third degree.*

(d) *It is an affirmative defense to prosecution under this section that, at the time of the offense, the actor was the spouse of the person committed to the civil commitment facility.*

(e) *If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section, the other law, or both.*

Sec. 39.05. FAILURE TO REPORT DEATH OF PRISONER.

(a) A person commits an offense if the person is required to conduct an investigation and file a report by Article 49.18, Code of Criminal Procedure, and the person fails to investigate the death, fails to file the report as required, or fails to include in a filed report facts known or discovered in the investigation.

(b) A person commits an offense if the person is required by Section 501.055, Government Code, to:

(1) give notice of the death of an inmate and the person fails to give the notice;

or

(2) conduct an investigation and file a report and the person:

(A) fails to conduct the investigation or file the report; or
(B) fails to include in the report facts known to the person or discovered by the person in the investigation.

(c) An offense under this section is a Class B misdemeanor.

Sec. 39.06. MISUSE OF OFFICIAL INFORMATION.

(a) A public servant commits an offense if, in reliance on information to which the public servant has access by virtue of the person's office or employment and that has not been made public, the person:

(1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;

(2) speculates or aids another to speculate on the basis of the information; or

(3) as a public servant, including as a school administrator, coerces another into suppressing or failing to report that information to a law enforcement agency.

(b) A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, he discloses or uses information for a nongovernmental purpose that:

(1) he has access to by means of his office or employment; and

(2) has not been made public.

(c) A person commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he solicits or receives from a public servant information that:

(1) the public servant has access to by means of his office or employment; and

(2) has not been made public.

(d) In this section, "information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Chapter 552, Government Code.

(e) Except as provided by Subsection (f), an offense under this section is a felony of the third degree.

(f) An offense under Subsection (a)(3) is a Class C misdemeanor.

Sec. 39.07. FAILURE TO COMPLY WITH IMMIGRATION DETAINER REQUEST.

(a) A person who is a sheriff, chief of police, or constable or a person who otherwise has primary authority for administering a jail commits an offense if the person:

(1) has custody of a person subject to an immigration detainer request issued by United States Immigration and Customs Enforcement; and

(2) knowingly fails to comply with the detainer request.

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

(c) It is an exception to the application of this section that the person who was subject to an immigration detainer request described by Subsection (a)(1) had provided proof that the person is a citizen of the United States or that the person has lawful immigration status in the United States, such as a Texas driver's license or similar government-issued identification.