

Tex. Penal Code § 37.10

This document is current through the 2023 Regular Session; the 1st C.S.; the 2nd C.S.; the 3rd C.S. and the 4th C.S. of the 88th Legislature; and the November 7, 2023 general election results.

Texas Statutes & Codes Annotated by LexisNexis® > Penal Code > Title 8 Offenses Against Public Administration (Chs. 36 — 39) > Chapter 37 Perjury and Other Falsification (§§ 37.01 — 37.14)

Sec. 37.10. Tampering with Governmental Record.

- (a) A person commits an offense if he:
 - (1) knowingly makes a false entry in, or false alteration of, a governmental record;
 - (2) makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
 - (3) intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
 - (4) possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
 - (5) makes, presents, or uses a governmental record with knowledge of its falsity; or
 - (6) possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.
- (b) It is an exception to the application of Subsection (a)(3) that the governmental record is destroyed pursuant to legal authorization or transferred under Section 441.204, Government Code. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Subtitle C, Title 6, Local Government Code.
- (c)
 - (1) Except as provided by Subdivisions (2), (3), (4), (5), and (6), and by Subsection (d), an offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event the offense is a state jail felony.
 - (2) An offense under this section is a felony of the third degree if it is shown on the trial of the offense that the governmental record was:
 - (A) a public school record, report, or assessment instrument required under Chapter 39, Education Code, data reported for a school district or open-enrollment charter school to the Texas Education Agency through the Public Education Information Management System (PEIMS) described by Sections 48.008 and 48.009, Education Code, under a law or rule requiring that reporting, or a license, certificate, permit, seal, title, letter of patent, or similar document issued by government, by another state, or by the United States, unless

the actor's intent is to defraud or harm another, in which event the offense is a felony of the second degree;

(B) a written report of a medical, chemical, toxicological, ballistic, or other expert examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action;

(C) a written report of the certification, inspection, or maintenance record of an instrument, apparatus, implement, machine, or other similar device used in the course of an examination or test performed on physical evidence for the purpose of determining the connection or relevance of the evidence to a criminal action; or

(D) a search warrant issued by a magistrate.

(3) An offense under this section is a Class C misdemeanor if it is shown on the trial of the offense that the governmental record is a governmental record that is required for enrollment of a student in a school district and was used by the actor to establish the residency of the student.

(4) An offense under this section is a Class B misdemeanor if it is shown on the trial of the offense that the governmental record is a written appraisal filed with an appraisal review board under Section 41.43(a-1), Tax Code, that was performed by a person who had a contingency interest in the outcome of the appraisal review board hearing.

(5) An offense under this section is a Class B misdemeanor if the governmental record is an application for a place on the ballot under Section 141.031, Election Code, and the actor knowingly provides false information under Subsection (a)(4)(G) of that section.

(6) An offense under this section is a Class A misdemeanor if the governmental record is a temporary tag issued under Chapter 502 or 503, Transportation Code.

(d) An offense under this section, if it is shown on the trial of the offense that the governmental record is described by Section 37.01(2)(D), is:

(1) a Class B misdemeanor if the offense is committed under Subsection (a)(2) or Subsection (a)(5) and the defendant is convicted of presenting or using the record;

(2) a felony of the third degree if the offense is committed under:

(A) Subsection (a)(1), (3), (4), or (6); or

(B) Subsection (a)(2) or (5) and the defendant is convicted of making the record; and

(3) a felony of the second degree, notwithstanding Subdivisions (1) and (2), if the actor's intent in committing the offense was to defraud or harm another.

(e) It is an affirmative defense to prosecution for possession under Subsection (a)(6) that the possession occurred in the actual discharge of official duties as a public servant.

(f) It is a defense to prosecution under Subsection (a)(1), (a)(2), or (a)(5) that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

(g) A person is presumed to intend to defraud or harm another if the person acts with respect to two or more of the same type of governmental records or blank governmental record forms and if

each governmental record or blank governmental record form is a license, certificate, permit, seal, title, or similar document issued by government.

(h) If conduct that constitutes an offense under this section also constitutes an offense under Section 32.48 or 37.13, the actor may be prosecuted under any of those sections.

(i) 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 section that involves the state Medicaid program.

(j) It is not a defense to prosecution under Subsection (a)(2) that the record, document, or thing made, presented, or used displays or contains the statement “NOT A GOVERNMENT DOCUMENT” or another substantially similar statement intended to alert a person to the falsity of the record, document, or thing, unless the record, document, or thing displays the statement diagonally printed clearly and indelibly on both the front and back of the record, document, or thing in solid red capital letters at least one-fourth inch in height.

History

Enacted by Acts 1973, 63rd Leg., ch. 399 (S.B. 34), § 1, effective January 1, 1974; am. Acts 1989, 71st Leg., ch. 1248 (H.B. 1285), § 66, effective September 1, 1989; am. Acts 1991, 72nd Leg., ch. 113 (S.B. 589), § 4, effective September 1, 1991; am. Acts 1991, 72nd Leg., ch. 565 (S.B. 4), § 5, effective September 1, 1991; am. Acts 1993, 73rd Leg., ch. 900 (S.B. 1067), § 1.01, effective September 1, 1994; am. Acts 1997, 75th Leg., ch. 189 (H.B. 1185), § 6, effective May 21, 1997; am. Acts 1997, 75th Leg., ch. 823 (S.B. 89), § 4, effective September 1, 1997; am. Acts 1999, 76th Leg., ch. 659 (H.B. 319), § 2, effective September 1, 1999; am. Acts 1999, 76th Leg., ch. 718 (H.B. 926), § 1, effective September 1, 1999; am. Acts 2001, 77th Leg., ch. 771 (S.B. 1800), § 3, effective June 13, 2001; am. Acts 2003, 78th Leg., ch. 198 (H.B. 2292), § 2.139, effective September 1, 2003; am. Acts 2003, 78th Leg., ch. 257 (H.B. 1743), § 16, effective September 1, 2003; am. Acts 2005, 79th Leg., ch. 1364 (H.B. 126), § 1, effective June 18, 2005; am. Acts 2007, 80th Leg., ch. 1085 (H.B. 3024), § 2, effective September 1, 2007; am. Acts 2009, 81st Leg., ch. 73 (H.B. 1813), § 1, effective September 1, 2009; am. Acts 2009, 81st Leg., ch. 1130 (H.B. 2086), § 31, effective September 1, 2009; am. Acts 2013, 83rd Leg., ch. 510 (S.B. 124), § 1, effective September 1, 2013; Acts 2015, 84th Leg., ch. 690 (H.B. 644), § 3, effective September 1, 2015; Acts 2019, 86th Leg., ch. 943 (H.B. 3), § 3.087, effective September 1, 2019; Acts 2021, 87th Leg., ch. 1006 (H.B. 4555), § 3, effective September 1, 2021; Acts 2023, 88th Leg., ch. 125 (H.B. 914), § 3, effective September 1, 2023.