PENAL CODE

TITLE 1. INTRODUCTORY PROVISIONS

CHAPTER 3. MULTIPLE PROSECUTIONS

Sec. 3.01. DEFINITION. In this chapter, "criminal episode" means the commission of two or more offenses, regardless of whether the harm is directed toward or inflicted upon more than one person or item of property, under the following circumstances:

(1) the offenses are committed pursuant to the same transaction or pursuant to two or more transactions that are connected or constitute a common scheme or plan; or

(2) the offenses are the repeated commission of the same or similar offenses.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1987, 70th Leg., ch. 387, Sec. 1, eff. Sept. 1, 1987; Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 3.02. CONSOLIDATION AND JOINDER OF PROSECUTIONS. (a) A defendant may be prosecuted in a single criminal action for all offenses arising out of the same criminal episode.

(b) When a single criminal action is based on more than one charging instrument within the jurisdiction of the trial court, the state shall file written notice of the action not less than 30 days prior to the trial.

(c) If a judgment of guilt is reversed, set aside, or vacated, and a new trial ordered, the state may not prosecute in a single criminal action in the new trial any offense not joined in the former prosecution unless evidence to establish probable guilt for that offense was not known to the appropriate prosecuting official at the time the first prosecution commenced.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994.

Sec. 3.03. SENTENCES FOR OFFENSES ARISING OUT OF SAME CRIMINAL EPISODE. (a) When the accused is found guilty of more than one offense arising out of the same criminal episode

prosecuted in a single criminal action, a sentence for each offense for which the accused has been found guilty shall be pronounced. Except as otherwise provided by this section, the sentences shall run concurrently.

(b) If the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run concurrently or consecutively if each sentence is for a conviction of:

(1) an offense:

(A) under Section 49.07 or 49.08, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(2) an offense:

(A) under Section 33.021 or an offense under Section 21.02, 21.11, 25.02, or 43.25 committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) committed against a victim younger than 17 years of age at the time of the commission of the offense regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(2-a) an offense:

(A) under Section 22.011 or 22.021, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a

case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(3) an offense:

(A) under Section 21.15 or 43.26, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of both sections; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of both sections;

(4) an offense for which the judgment in the case contains an affirmative finding under Article 42.0197, Code of Criminal Procedure;

(5) an offense:

(A) under Section 20A.02, 20A.03, or 43.05, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A), regardless of whether the accused is charged with violations of the same section more than once or is charged with violations of more than one section;

(6) an offense:

(A) under Section 22.04(a)(1) or (2) or Section 22.04(a-1)(1) or (2) that is punishable as a felony of the first degree, regardless of whether the accused is convicted of violations of the same section more than once or is convicted of violations of more than one section; or

(B) for which a plea agreement was reached in a case in which the accused was charged with more than one offense listed in Paragraph (A) and punishable as described by that paragraph, regardless of whether the accused is charged with violations of the same section more than once or is charged with

violations of more than one section;

(7) an offense under Section 43.235 or an offense for which a plea agreement was reached in a case in which the accused was charged with more than one offense under Section 43.235; or

(8) any combination of offenses listed in Subdivisions (1)-(7).

(b-1) Subsection (b)(4) does not apply to a defendant whose case was transferred to the court under Section 54.02, Family Code.

(c) If in a single criminal action the accused is found guilty of more than one offense under Section 22.02 that arises out of the same criminal episode, the sentences run consecutively if each sentence is for a conviction of an assault punishable as a felony of the first degree under Section 22.02(b)(4).

(d)(1) This subsection applies only to a single criminal action in which the accused is found guilty of:

(A) an offense under Section 20.05(a)(2) or an offense under Section 20.06 involving conduct constituting an offense under Section 20.05(a)(2); and

(B) an offense punishable under Section 22.01(b-4), 28.10, 30.02(c-2), 30.04(d)(3)(B), 30.05(d)(4), or 38.04(b-1) that arises out of the same criminal episode as the offense described by Paragraph (A).

(2) The sentence for an offense described by Subdivision (1)(A) may run consecutively with each sentence for an offense described by Subdivision (1)(B).

(3) If the accused is found guilty of more than one offense described by Subdivision (1)(A), the sentences for those offenses must run concurrently with each other.

(e) Except as otherwise provided by this subsection, if in a single criminal action the accused is found guilty of more than one offense arising out of the same criminal episode, the sentences may run consecutively if each sentence is for a conviction of an offense for which a plea agreement was reached in a case in which the accused was charged with an offense described by Subsection (d)(1)(A) and an offense described by Subsection (d)(1)(B). If the accused is found guilty of more than one offense described by Subsection (d)(1)(A), the sentences for those offenses must run

concurrently with each other.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1995, 74th Leg., ch. 596, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 667, Sec. 2, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 527 (H.B. 904), Sec. 1, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.47, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 6, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 21, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 6.01, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 228 (H.B. 220), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 413 (S.B. 20), Sec. 1.01, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 249 (H.B. 1403), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 467 (H.B. 165), Sec. 2, eff. September 1, 2023.

Acts 2023, 88th Leg., 3rd C.S., Ch. 2 (S.B. 4), Sec. 1, eff. February 6, 2024.

Acts 2025, 89th Leg., R.S., Ch. 557 (H.B. 1422), Sec. 12, eff. September 1, 2025.

Acts 2025, 89th Leg., R.S., Ch. 756 (S.B. 20), Sec. 2, eff. September 1, 2025.

Sec. 3.04. SEVERANCE. (a) Whenever two or more offenses have been consolidated or joined for trial under Section 3.02, the defendant shall have a right to a severance of the offenses.

(b) In the event of severance under this section, the provisions of Section 3.03 do not apply, and the court in its discretion may order the sentences to run either concurrently or

consecutively.

(c) The right to severance under this section does not apply to a prosecution for offenses described by Section 3.03(b) or (c) unless the court determines that the defendant or the state would be unfairly prejudiced by a joinder of offenses, in which event the judge may order the offenses to be tried separately or may order other relief as justice requires.

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. Jan. 1, 1974. Amended by Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 667, Sec. 3, eff. Sept. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 527 (H.B. 904), Sec. 2, eff. September 1, 2005.

Acts 2023, 88th Leg., R.S., Ch. 467 (H.B. 165), Sec. 3, eff. September 1, 2023.