

\$19.95



WHEN CAN I LEGALLY SHOOT?

THE LAW OF DEADLY FORCE IN TEXAS



2021-2023 EDITION

INCLUDES CHANGES FROM THE 87TH LEGISLATURE

I'M CHARGED WITH WHAT?

IF YOU ARE IN THE UNFORTUNATE POSITION TO BE CHARGED WITH A CRIME INVOLVING A FIREARM IN TEXAS, HOW SERIOUS IS IT?



MISDEMEANORS

CLASS C MISDEMEANOR Discharging a Firearm Within the City Limits in Violation of a Municipal Ordinance

Disorderly Conduct
Intentionally or knowingly discharging a firearm on or across a public road.

CLASS B MISDEMEANOR **Disorderly Conduct**
Intentionally or knowingly discharging a firearm in a public place; OR intentionally or knowingly displaying a firearm in a public place in a manner calculated to alarm.

CLASS A MISDEMEANOR **Discharge of Firearm in Certain Municipalities**
Recklessly discharging a firearm in a city with a population over 100,000 people.

Unlawful Carrying of a Weapon
Intentionally, knowingly, or recklessly carrying on or about your person a handgun while not on your own premises or directly en route to a motor vehicle or watercraft owned by you or under your control, and while younger than 21 years of age, or having been convicted of certain offenses in the past five years.

Deadly Conduct
Recklessly engaging in conduct that places another person in imminent danger of serious bodily injury.

FELONIES

STATE JAIL FELONY **Criminally Negligent Homicide**
Causing the death of another person due to a gross deviation from the ordinary standard of care.

3RD DEGREE FELONY **Deadly Conduct: Discharge of a Firearm**
Knowingly discharging a firearm at or in the direction of another person, habitation, building, or vehicle.

2ND DEGREE FELONY **Aggravated Assault with a Deadly Weapon**
Intentionally, knowingly, or recklessly causing serious bodily injury to another or exhibiting or using a deadly weapon while causing or threatening bodily injury to another.

Manslaughter
Recklessly causing the death of another.

1ST DEGREE FELONY **Murder**
Intentionally or knowingly causing the death of another.

CAPITAL FELONY **Capital Murder**
Committing a murder while also satisfying any condition listed in Tex. Penal Code § 19.03.

PUNISHMENT

CLASS C MISDEMEANOR: UP TO A \$500 FINE.

CLASS B MISDEMEANOR: UP TO 180 DAYS IN JAIL; AND/OR A FINE UP TO \$2,000.

CLASS A MISDEMEANOR: UP TO 365 DAYS IN JAIL; AND/OR A FINE UP TO \$4,000.

PUNISHMENT

STATE JAIL FELONY: 180 DAYS TO 2 YEARS IN STATE JAIL.*

3RD DEGREE FELONY: 2 TO 10 YEARS IN PRISON.*

2ND DEGREE FELONY: 2 TO 20 YEARS IN PRISON.*

1ST DEGREE FELONY: 5 TO 99 YEARS IN PRISON OR LIFE.*

CAPITAL FELONY: LIFE WITHOUT PAROLE OR DEATH.

*AND A FINE UP TO \$10,000.



WHERE THE LAW IS LOCATED Texas Penal Code

§ 12.23 Class C Misdemeanor Punishment
§ 12.22 Class B Misdemeanor Punishment
§ 12.21 Class A Misdemeanor Punishment
§ 12.35 State Jail Felony Punishment
§ 12.34 Third Degree Felony Punishment
§ 12.33 Second Degree Felony Punishment
§ 12.32 First Degree Felony Punishment
§ 12.31 Capital Felony Punishment
§ 19.02 Murder

§ 19.03 Capital Murder
§ 19.04 Manslaughter
§ 19.05 Criminally Negligent Homicide
§ 22.02 Aggravated Assault
§ 22.05 Deadly Conduct
§ 42.01 Disorderly Conduct
§ 42.12 Discharge of Firearm in Certain Municipalities
§ 46.02 Unlawful Carrying of a Weapon

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BY WHAT STANDARD WILL THE LAW JUDGE MY ACTIONS...

IF I USE DEADLY FORCE?

If you use deadly force, your conduct will be measured by what the law terms a “reasonable person” standard.

**ACTIONS ARE
LEGALLY JUSTIFIED**

IF



**YOU REASONABLY BELIEVE THAT DEADLY FORCE
IS IMMEDIATELY NECESSARY TO PREVENT...**

**Another's Use of Unlawful Deadly Force or Imminent
Commission of Aggravated Kidnapping, Murder,
Sexual Assault, Aggravated Sexual Assault, Robbery,
or Aggravated Robbery.**



WHAT IS REASONABLE? WHO DECIDES?

The law will judge your actions (*i.e.*, use of deadly force) by using the reasonable person standard. That is—would a reasonable person under the same or similar circumstances agree that deadly force was immediately necessary? This reasonable person standard is the law's attempt to make the concept of reasonableness an objective test. The law does not focus on whether you believed deadly force was reasonable, but whether a reasonable person in the same or similar circumstances would consider it reasonable. If the legal system (ultimately this could be a jury) determines that deadly force was immediately necessary, then you were legally justified in using deadly force. However, juries, judges, and prosecutors are simply human beings, and people can have vastly different ideas of how a reasonable person should act under any given circumstances. This is particularly true if asked to decide whether deadly force was immediately necessary or not. Tex. Penal Code § 9.32; *Gamino v. State*, 537 S.W.3d 507 (Tex. Crim. App. 2017).



WHEN IS IT NOT A CRIME?

LEGAL JUSTIFICATION OF DEADLY FORCE

IN TEXAS



Legal justification is a set of circumstances that the law says is a valid reason for a person doing something that would otherwise be a crime.

LEGAL JUSTIFICATION OF DEADLY FORCE

YOU

 LEGALLY JUSTIFIED

Not Guilty of a Crime



 NOT LEGALLY JUSTIFIED

Guilty of a Crime; Subject to Penalties of the Offense



As a general rule, it is illegal to shoot someone; however, if done under a particular set of circumstances (e.g., self-defense, defense of others, etc.), the law states a person is excused from the illegality or is legally justified.

WHAT IS BODILY INJURY?

■ **Bodily Injury:** A physical pain, illness, or any impairment of physical condition. Tex. Penal Code § 1.07(8).

WHAT IS SERIOUS BODILY INJURY?

■ **Serious Bodily Injury:** Bodily injury that creates a substantial risk of death or causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ. Tex. Penal Code § 1.07(46).

WHAT IS DEADLY FORCE?

■ **Deadly Force:** Force that is intended or known by the actor to cause, or in the manner of its use or intended use is capable of causing, death or serious bodily injury. Tex. Penal Code § 9.01(3).

Note: firing a gun at another person is considered a use of deadly force.



INVOKE YOUR LEGAL RIGHTS!

WHAT TO DO AFTER BANG!



COUNTLESS MEN AND WOMEN HAVE SACRIFICED THEIR LIVES AND FORTUNES SO THAT WE AMERICANS MAY HAVE LEGAL RIGHTS — DON'T WAIVE THEM. IF YOU'RE INVOLVED IN A SHOOTING, YOU MAY NEED EVERY LEGAL RIGHT AVAILABLE.

- Make sure the threat has been controlled.
- Call 911.
- Return the firearm to safe keeping if possible.
- Do not disturb the scene.

■ CALL YOUR LAWYER!

■ When police arrive, comply with all commands in a non-threatening manner, keeping your hands clearly visible. The police do not know who the good guys and bad guys are when they first arrive.

■ Inform police that you have been a victim of a crime. State to the police: **"I WISH TO INVOKE MY RIGHT TO REMAIN SILENT, AND I WANT TO CONSULT MY ATTORNEY BEFORE MAKING ANY STATEMENTS."**

■ Make no statement to anyone about the incident; wait to talk to your attorney.

■ If asked to accompany law enforcement, comply, but make no statements.

■ Do not make jokes or cute remarks. Remain silent, even if you believe you have done nothing wrong.



THE 911 CALL

If you use your gun, dial 911 and get medical and police assistance. However, the only information that the 911 dispatcher needs to know from YOU is your name, the location of the emergency, what assistance is needed, and that you have been a victim of a crime. **DO NOT DISCUSS WHAT HAPPENED WITH THE OPERATOR!** All calls are recorded.



DON'T GIVE A STATEMENT

Talk to your lawyer before you make any statements about a shooting. If what you say does not match the physical or material evidence at the scene, you may have a huge problem regardless of how innocent your mistake may be. Your freedom, liberty, and fortune are at risk, so invoke your right to remain silent and your right to a lawyer.



THE ROLE OF THE POLICE

Law enforcement's main job after a shooting is to investigate. Remember, what you say to the police can and WILL be used against you. *Note:* the U.S. Supreme Court, in 2010, held that a police interrogation may go on indefinitely until you invoke your legal rights—so **INVOKE YOUR RIGHTS!**



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LAW OF SELF-DEFENSE

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN TEXAS 

DEADLY FORCE IS LEGALLY JUSTIFIED IF YOU REASONABLY BELIEVE IT IS IMMEDIATELY NECESSARY TO PREVENT IMMINENT:



YOU



1
MURDER/
DEADLY FORCE



2
AGGRAVATED
KIDNAPPING



3
SEXUAL ASSAULT
AND
AGGRAVATED
SEXUAL ASSAULT



4
ROBBERY
AND
AGGRAVATED
ROBBERY



5
HOME INVASION
AND CARJACKING



Tex. Penal Code § 9.32 provides, “a person is justified in using deadly force” when and to the degree you reasonably believe deadly force is immediately necessary to protect yourself from the commission or attempted commission of:

- Murder/Deadly Force
- Sexual Assault and Aggravated Sexual Assault
- The unlawful and forceful entrance or attempted entrance into a person’s occupied habitation, vehicle, or place of business or employment
- The unlawful and forceful removal or attempted removal of a person from an occupied habitation, vehicle, or place of business or employment
- Aggravated Kidnapping
- Robbery and Aggravated Robbery

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LAW OF DEFENSE OF OTHERS

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN TEXAS

DEADLY FORCE IS LEGALLY JUSTIFIED IF YOU REASONABLY BELIEVE IT IS IMMEDIATELY NECESSARY TO PREVENT:

YOU



VICTIM



1
MURDER/
DEADLY FORCE



2
AGGRAVATED
KIDNAPPING



3
SEXUAL ASSAULT
AND
AGGRAVATED
SEXUAL ASSAULT



4
ROBBERY
AND
AGGRAVATED
ROBBERY



5
HOME INVASION
AND CARJACKING



Tex. Penal Code § 9.33 provides, “a person is justified in using force or deadly force” against another to protect a third person, if you reasonably believe that the intervention is immediately necessary to protect the third person from the commission or attempted commission of:

- Murder/Deadly Force
- Sexual Assault and Aggravated Sexual Assault
- The unlawful and forceful entrance or attempted entrance into a person’s occupied habitation, vehicle, or place of business or employment
- The unlawful and forceful removal or attempted removal of a person from an occupied habitation, vehicle, or place of business or employment
- Aggravated Kidnapping
- Robbery and Aggravated Robbery

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PROTECTION OF YOUR PROPERTY

WHEN CAN YOU LEGALLY USE DEADLY FORCE?

IN TEXAS



TRESPASSER

DON'T SHOOT! Deadly Force is NOT Legally Justified!

YOU

Commits or Attempts to Commit...



■ TRESPASSING

■ UNLAWFUL INTERFERENCE WITH PROPERTY



■ Deadly Force is **NOT** Legally Justified



Tex. Penal Code § 9.41 allows for the use of force, **NOT** deadly force, to terminate a trespass or unlawful interference with property.

TRESPASSER

Deadly Force IS Legally Justified!

YOU

Commits or Attempts to Commit...



■ ARSON

■ ROBBERY/BURGLARY/AGGRAVATED ROBBERY

■ THEFT DURING THE NIGHTTIME / CRIMINAL MISCHIEF DURING THE NIGHTTIME



■ Nighttime is defined as 30 minutes after sunset until 30 minutes before sunrise. See Tex. Transp. Code § 541.401.



Tex. Penal Code § 9.42 also provides, if you reasonably believe deadly force is immediately necessary to prevent another's "fleeing immediately after committing burglary, robbery, aggravated robbery, or theft during the nighttime, from escaping with the property," and you reasonably believe that "the land or property cannot be protected or recovered by any other means" or "the use of force other than deadly force" would expose you to "substantial risk of death or serious bodily injury," then you are legally justified in using deadly force.

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WHEN CAN YOU PROTECT SOMEONE ELSE'S PROPERTY...

WITH DEADLY FORCE?



PROTECTION OF A THIRD PARTY'S PROPERTY



Tex. Penal Code § 9.43 provides that you may protect a third person's property to the same extent that the law allows you to protect your own property if you reasonably believe:

- The third person has requested protection of their land or property;
- You have a legal duty to protect the third person's property;
- The third person's land or property is that of your spouse, parent, child, person residing with you, or person under your care; **OR**
- You reasonably believe the unlawful interference constitutes an attempted or consummated theft of or criminal mischief to the tangible, movable property.



PROTECTION AGAINST ANIMALS

Texas law does not provide a general statutory justification for using deadly force against an animal outside the **defense of necessity**; however, this does not mean you and your loved ones are at the mercy of the animal kingdom. The laws for legally using deadly force against animals are located in many different statutes; the following are some of the most relevant.

- Texas law specifically allows you to use deadly force against a dog or coyote that is attacking or has immediately attacked your livestock, fowl, or domestic animal.
- Texas law allows for the killing of raccoons, opossums, skunks, and other small mammals if they are damaging crops or other property.
- It is specifically a defense to the crimes of Animal Cruelty and Disorderly Conduct Discharge of a Firearm if the firearm was discharged in response to a reasonable fear of bodily injury from a "dangerous wild animal."
- It is a defense to the Animal Cruelty charge of killing or injuring an animal if it is discovered on the person's property killing or injuring the person's livestock or damaging the person's crops.



WHAT ARE DANGEROUS WILD ANIMALS?

- **Dangerous Wild Animals:** A lion, tiger, ocelot, cougar, leopard, cheetah, jaguar, bobcat, lynx, serval, caracal, hyena, bear, coyote, jackal, baboon, chimpanzee, orangutan, gorilla, or any hybrid of one of the animals listed here. Tex. Health & Safety Code § 822.101(4).



PRACTICAL LEGAL TIP: You can claim a defense of necessity if your action was urgently and immediately necessary to avoid imminent harm, and the desirability and urgency of your action clearly outweighed the harm which was prevented.



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THEFT AND ROBBERY

EXPLANATION OF SELECT CRIMES

IN TEXAS



THEFT

THE CRIME OF THEFT



Tex. Penal Code § 31.03

Theft occurs when a perpetrator:

“UNLAWFULLY APPROPRIATES” ANOTHER’S PROPERTY WITH INTENT TO “DEPRIVE.”

APPROPRIATES:

- Bringing about a transfer or purported transfer of title; **OR**
- To acquire or otherwise exercise control over property other than real property.

DEPRIVE:

- To withhold property from the owner permanently or for an extended period;
- To return only on payment of reward; **OR**
- To dispose of property in a manner that makes recovery by the owner unlikely.

ROBBERY

THE CRIME OF ROBBERY



Tex. Penal Code § 29.02

A robbery occurs when, in the course of a theft, a perpetrator:

INTENTIONALLY, KNOWINGLY, OR RECKLESSLY...

OR

INTENTIONALLY OR KNOWINGLY...

CAUSES...



BODILY INJURY

THREATENS OR PLACES ANOTHER IN FEAR OF IMMINENT...



BODILY INJURY OR DEATH

AGGRAVATED ROBBERY

THE CRIME OF AGGRAVATED ROBBERY



Tex. Penal Code § 29.03

Aggravated robbery occurs when, in the course of a robbery, a perpetrator:

CAUSES ANOTHER...

OR

USES OR EXHIBITS...

OR

THE PERSON INJURED, THREATENED, OR PLACED IN FEAR OF IMMINENT BODILY INJURY OR DEATH IS...

SERIOUS BODILY INJURY



A DEADLY WEAPON



65 YEARS OR OLDER OR IS A DISABLED PERSON



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BURGLARY

THE CRIME OF BURGLARY

IN TEXAS



BURGLARY OCCURS WHEN A PERPETRATOR:

Enters without consent of the owner or remains concealed in...



A habitation, or any portion of a building



With intent to commit or does commit:

A FELONY

OR

A THEFT

OR

AN ASSAULT

DOES THEIR WHOLE BODY HAVE TO ENTER?

No, for purposes of determining if a burglary has occurred, Texas law provides, a person **enters** a building or habitation when:

Any part of their body



OR Any physical object connected to their body



Intrudes into a building or habitation



 Tex. Penal Code § 30.02



ASSAULT & AGGRAVATED ASSAULT

THE LAW OF ASSAULT

IN TEXAS



AN ASSAULT OCCURS WHEN A PERPETRATOR:



Tex. Penal Code § 22.01

1
Intentionally, Knowingly, or Recklessly Causes Another:



BODILY INJURY

OR

2
Intentionally or Knowingly, Threatens or Causes Another Fear of Imminent:



BODILY INJURY

OR

3
Intentionally or Knowingly Causes Physical Contact to Another:

When the perpetrator knew or should have reasonably believed that the person would regard the contact as **offensive** or **provocative**.

AN AGGRAVATED ASSAULT OCCURS WHEN A PERPETRATOR:



Tex. Penal Code § 22.02

1
Intentionally, Knowingly, or Recklessly Causes Another:



SERIOUS BODILY INJURY

OR

2
Uses or Exhibits a Deadly Weapon During an Assault;



OR

3
While in a Motor Vehicle, Knowingly Discharges a Firearm at a Habitation, Building, or Vehicle, Causing Another:



SERIOUS BODILY INJURY



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Do I Have To RETREAT?

NO LEGAL DUTY TO RETREAT!



"I shall never surrender or retreat."

William Travis, Commander of the Alamo
February 24, 1836

■ The words **"Stand Your Ground"** are not found in the Texas Penal Code. "Stand Your Ground" is the popular name for a legal doctrine referred to in the law as "No Duty to Retreat." If you qualify under the statute, a prosecutor or law enforcement officer cannot argue that you had a reasonable "escape route" or that you had to "fall back" before justifiably using force or deadly force.

★ **TEXAS** ★
LAW PROVIDES

**NO RETREAT
IS LEGALLY NECESSARY**

**IF ALL FOUR OF THE
FOLLOWING ARE MET:**



Your use of force or deadly force is justified under the law;



You have a legal right to be at the location where force or deadly force is used;



You did not provoke the person against whom force or deadly force was used; and



You were not engaged in criminal activity at the time force or deadly force was used.



Tex. Penal Code §§ 9.31(e), 9.32(c)



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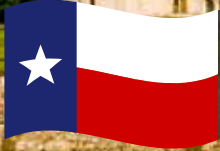


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THE CASTLE DOCTRINE

USE OF DEADLY FORCE UNDER THE CASTLE DOCTRINE



The words “Castle Doctrine” are not found in the Texas Penal Code. The “Castle Doctrine” is the popular name for a legal philosophy that every person, as the “King” or “Queen” of their own home, never has to flee the castle before using deadly force against an intruder. The Texas version of the Castle Doctrine can be found in **Tex. Penal Code § 9.32**.

WHEN DO I GET THE PROTECTION OF THE “CASTLE DOCTRINE”?

IF

You did not provoke the person against whom the deadly force was used, you were not engaged in criminal activity at the time (other than a traffic-related Class C misdemeanor), and you knew or had reason to believe that the person against whom the deadly force was used had:

forcefully and unlawfully entered, or was attempting to enter, your occupied...

OR

forcefully and unlawfully removed, or was attempting to remove, you from your occupied...



Tex. Penal Code § 9.32(b)



HABITATION



VEHICLE



PLACE OF BUSINESS/EMPLOYMENT

THEN



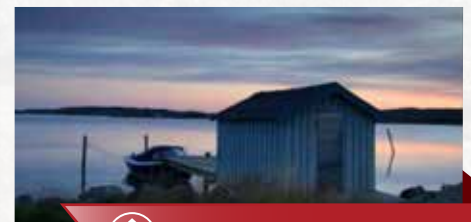
Texas law gives you the legal presumption that your belief that deadly force was immediately necessary is reasonable.

! IMPORTANT NOTE

Under Texas law, a habitation is limited to a structure or vehicle that allows for overnight accommodation of persons; therefore, other structures NOT ATTACHED to the habitation (e.g., unattached sheds, barns, boat houses, etc.) are not covered under the Castle Doctrine, although they may be covered and protected elsewhere in the law.



Tex. Penal Code § 30.01(1)



NOT A HABITATION!



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WHERE AM I LEGALLY ALLOWED TO CARRY?

LOCATION		WITH A LICENSE TO CARRY		WITHOUT A LICENSE TO CARRY		LONG GUN (with or without a license to carry, open or concealed)
		HANDGUN CONCEALED	HANDGUN OPEN	HANDGUN CONCEALED	HANDGUN OPEN	
	Private property with owner's consent.	✓	✓	✓	✓	✓
	Motor vehicle or watercraft with owner's consent.	✓	✓	✓	✓	✓
	A public place that has provided no notice and is not otherwise prohibited by TPC 46.03.	✓	✓	✓	✓	✓
	A liquor, grocery, or convenience store that sells alcohol that has provided no notice of prohibition.	✓	✓	✓	✓	✓
	Employee parking lots.*	✓	✓	✓	✓	✓
	Established place of religious worship, including churches and synagogues, without notice of prohibition.	✓	✓	✓	✓	✓
	A public place with only a TPC 30.05 "no firearm" sign that is reasonably likely to come to the attention of intruders.±	✓	✓	✗	✗	✗
	A public place that only has effective TPC 30.06 sign prohibiting concealed carry.±	✗	✓	✓	✓	✓
	A public place that only has effective TPC 30.07 sign prohibiting open carry.±	✓	✗	✓	✓	✓
	A public place that has posted effective TPC 30.05, 30.06, and 30.07 signs or provided personal notice.±	✗	✗	✗	✗	✗
	A prohibited location with a TPC 46.03 sign.**	✗	✗	✗	✗	✗
	A business receiving 51% or more of its income from serving alcohol for consumption on premises that has posted an effective TGC 411.204 sign.	✗	✗	✗	✗	✗
	Elementary or secondary school premises (not including parking lots, sidewalks, and walkways outside of buildings), in a school or educational institution transportation vehicle, or grounds or building where a school-sponsored activity is taking place, without written authorization.	✗	✗	✗	✗	✗
	Within 1,000 feet of a school (outside of school buildings).**	✓	✓	✗	✗	✗***
	Premises, grounds, or buildings (including collegiate sporting events) of an institution of higher education on which a sponsored activity is taking place, or a passenger transportation vehicle of an institution of higher education where effective TPC 30.06 sign is not posted.±	✓	✗	✗	✗	✗
	College campus or area, including a driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area of an institution of higher education, where effective TPC 30.06 sign is not posted.±	✓	✓	✓	✓	✓
	Professional sporting event.	✗	✗	✗	✗	✗
	Premises of a pari-mutuel racetrack: horse or dog racing.	✗	✗	✗	✗	✗



WHERE AM I LEGALLY ALLOWED TO CARRY? (CONTINUED)





LOCATION	WITH A LICENSE TO CARRY		WITHOUT A LICENSE TO CARRY		LONG GUN (with or without a license to carry, open or concealed)
	HANDGUN CONCEALED	HANDGUN OPEN	HANDGUN CONCEALED	HANDGUN OPEN	
 National park (except buildings and facilities), state parks, and state forests.	✓	✓	✓	✓	✓
 In a secured area of an airport (<i>i.e.</i> , inside the metal detectors).	✗	✗	✗	✗	✗
 A hospital or nursing facility, or amusement park with no effective TPC 30.06 or 30.07 notice.±	✓	✓	✗	✗	✗
 Room of an open meeting of a governmental entity.	✓	✓	✗	✗	✗
 A court or office used by the court, without permission.	✗	✗	✗	✗	✗
 Correctional or civil commitment facility, or within 1,000 feet of a Texas Department of Criminal Justice place of execution on the day a death sentence is set to be imposed.	✗	✗	✗	✗	✗
 U.S. Post Office, VA Hospital, or other place prohibited by federal law, including parking lots and sidewalks.	✗	✗	✗	✗	✗
 Polling place on election day, including during early voting.	✗	✗	✗	✗	✗

Note: To carry a handgun in Texas, an eligible person must be 21 years of age or older and not prohibited from possessing a firearm, or must possess a handgun license or permit. Keep in mind, there are exceptions and nuances with every law—for questions about your particular circumstances, please consult an attorney licensed in the State of Texas.
 *Generally, a person may carry in their employer's parking lot; however, some employers may exclude all firearms. See Tex. Labor Code Secs. 52.061-52.062 for details (*e.g.*, secured petrochemical plants, *etc.*).
 **Effective TPC 46.03 notice is not required for the location to be prohibited. Signage merely removes a possible defense to prosecution.
 ***There are several exceptions to federal gun-free school zones. Notably, possessing a license or permit to carry a firearm issued by the state in which the zone is located. For example, a Texas License to Carry ("LTC") would meet the exception for a handgun in a Texas school zone. As of this writing, there is no controlling case law on applying this exception to long guns carried by LTC holders.
 ±If at any point a person receives notice from the owner or someone with apparent authority that carrying a firearm in the location is prohibited, they must immediately depart or face heightened penalties.

Who qualifies for Texas Constitutional Carry?

“Constitutional carry” is a broad term applied to states that do not require a license or permit to carry a handgun. On June 16, 2021, Governor Greg Abbott signed into law House Bill 1927, making Texas a constitutional carry state. This law allows a qualified person to carry a handgun in a public place without any carry permit.

In order to qualify for Texas Constitutional Carry, a person must meet all of the following:

-  Must be at least 21 years of age.
-  Must not be prohibited from possessing a firearm in a public place under Texas law.
-  Within the previous five years, must not have been convicted of: (1) Assault Causing Bodily Injury; (2) Deadly Conduct; (3) Terroristic Threat; (4) Disorderly Conduct - Discharging a Firearm; or (5) Disorderly Conduct - Displaying a Firearm.
-  Must not be prohibited from possessing a firearm or ammunition under federal law.

Places Off-Limits Under Texas Constitutional Carry

Prohibited Places: The Firearm Carry Act of 2021 conveniently reorganized the places weapons are prohibited into one location, Tex. Penal Code Sec. 46.03. See chart above.

Trespass: The Firearm Carry Act of 2021 created a new method a private property owner may use to give notice to people other than *license holders* that entering the premises with a firearm (including a handgun) constitutes a trespass—the Tex. Penal Code Sec. 30.05 “No Firearm” sign (see page 16 for full explanation).

Note on Federal Law: Keep in mind, federal property is subject to federal law (not state law) and typically prohibits firearms anywhere on federal property, including parking lots and sidewalks.



LEGALLY EFFECTIVE SIGNAGE



- NOTICE -
IT IS UNLAWFUL FOR A PERSON TO CARRY A HANDGUN ON THIS PREMISE, INCLUDING A PERSON LICENSED UNDER SUBCHAPTER H, CH. 411, GOVERNMENT CODE

51% Sign: If an establishment sells alcohol by the drink and derives 51% or more of its income from alcohol sales, it must display a 51% sign to legally give notice to all persons that the place is prohibited. However, only license holders are provided relief if the establishment does not provide effective notice (post signage) under Tex. Penal Code Sec. 46.15(p).

- NOTICE -
WEAPONS PROHIBITED
 PURSUANT TO SECTION 46.03, PENAL CODE (PLACES WEAPONS PROHIBITED), A PERSON MAY NOT CARRY A FIREARM OR OTHER WEAPON ON THIS PROPERTY.
ARMAS PROHIBIDAS
 CONFORME A LA SECCIÓN 46.03 (LUGARES ARMAS PROHIBIDAS), PERSONAS NO PUEDE PORTAR UN ARMA DE FUEGO U OTRA ARMA EN ESTA PROPIEDAD.

New 46.03 Sign: Prohibited places (locations listed on pages 14-15) have the option to provide a new form of notice that the location is prohibited under Tex. Penal Code Sec. 46.03. This notice can be provided by a sign meeting the legal requirements that is posted prominently at each entrance to the premises or property. If effective notice is provided by this new 46.03 sign under Tex. Penal Code Sec. 46.15(o), any person who carries a firearm (even accidentally) into that location will not have the benefit of the newly created defense to prosecution intended to guard against mistakes. Regardless if the location has or has not posted a 46.03 sign, it is still prohibited.

A violation of carrying into a 51% location or a prohibited place (under Tex. Penal Code Sec. 46.03) is generally a 3rd Degree Felony (a hospital, nursing facility, or amusement park is a Class A Misdemeanor).

- NOTICE -
UNLICENSED CARRYING OF FIREARMS PROHIBITED
 PURSUANT TO SECTION 30.05, PENAL CODE (CRIMINAL TRESPASS), A PERSON MAY NOT ENTER THIS PROPERTY WITH A FIREARM.
PROHÍBEN PORTE SIN LICENCIAD DE ARMAS DE FUEGO
 CONFORME A LA SECCIÓN 30.05 (TRASPASAR CRIMEN), PERSONAS NO PUEDE ENTRARA PROPIEDAD CON UN ARMA DE FUEGO.

Tex. Penal Code Sec. 30.05(c) establishes a new option for a property owner to provide notice to exclude non-license holders carrying a firearm. The sign could come in many different forms; the only legal requirement is that it is reasonably likely to come to the attention of the person entering the building.

NO GUNS!

NOTICE

NO GUNS ALLOWED

These signs are effective against a person carrying under the authority of the Firearm Carry Act and not license holders.

Legally Effective Signage for License Holders in Texas
 Tex. Penal Code Secs. 30.06 and 30.07 establish strict requirements for signs to give legally effective notice to exclude license holders who are carrying in Texas in places not otherwise governed by statute. Note: valid warning can be given orally, in writing, or by signage.

HANDGUNS PROHIBITED
 PURSUANT TO SECTION 30.06, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH A CONCEALED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A CONCEALED HANDGUN.
 CONFORME A LA SECCIÓN 30.06 DEL CÓDIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO.

HANDGUNS PROHIBITED
 PURSUANT TO SECTION 30.07, PENAL CODE (TRESPASS BY LICENSE HOLDER WITH AN OPENLY CARRIED HANDGUN), A PERSON LICENSED UNDER SUBCHAPTER H, CHAPTER 411, GOVERNMENT CODE (HANDGUN LICENSING LAW), MAY NOT ENTER THIS PROPERTY WITH A HANDGUN THAT IS CARRIED OPENLY.
 CONFORME A LA SECCIÓN 30.07 DEL CÓDIGO PENAL (TRASPASAR PORTANDO ARMAS DE FUEGO) PERSONAS CON LICENCIA BAJO DEL SUB-CAPITULO H, CAPITULO 411, CODIGO DE GOBIERNO (LEY DE PORTAR ARMAS), NO DEBEN ENTRAR A ESTA PROPIEDAD PORTANDO UN ARMA DE FUEGO.



CIVIL LIABILITY

YOU'RE NOT OUT OF THE WOODS YET

TWO INDEPENDENT LEGAL SYSTEMS

CRIMINAL SYSTEM



THE STATE
vs.
YOU

Seeking
to Deprive Freedom



CIVIL SYSTEM

ANOTHER
vs.
YOU



Seeking
Monetary Compensation



§ THE LAW

If you have used legally justified force or deadly force, the law protecting you from civil liability is contained in Texas Civil Practice and Remedies Code § 83.001.

“CIVIL IMMUNITY. A defendant who uses force or deadly force that is justified under Chapter 9, Penal Code, is immune from civil liability for personal injury or death that results from the defendant’s use of force or deadly force, as applicable.”

⊘ WHAT IT'S NOT

It is a common misconception that if you have used justified force or deadly force that Tex. Civ. Prac. & Rem. Code § 83.001 provides complete protection or “immunity” from the entire civil legal system. It does not. This statute has some serious legal limitations. It is **NOT** an immunity from people suing you. You can still get sued, and you will still have to go through the court system and process before your affirmative defense of “immunity” will be heard. Furthermore, the statute provides no immunity at all for property damage.

In addition, if the criminal justice system has not made a determination of your justification for the use of deadly force, the issue will have to be decided by a civil trial judge and/or jury. Thus, the necessity for this determination of justification will force you deeper into the civil law system.

**Note to
U.S. LawShield® Members:**
All of your attorneys’
fees are covered for both the
criminal and civil systems.

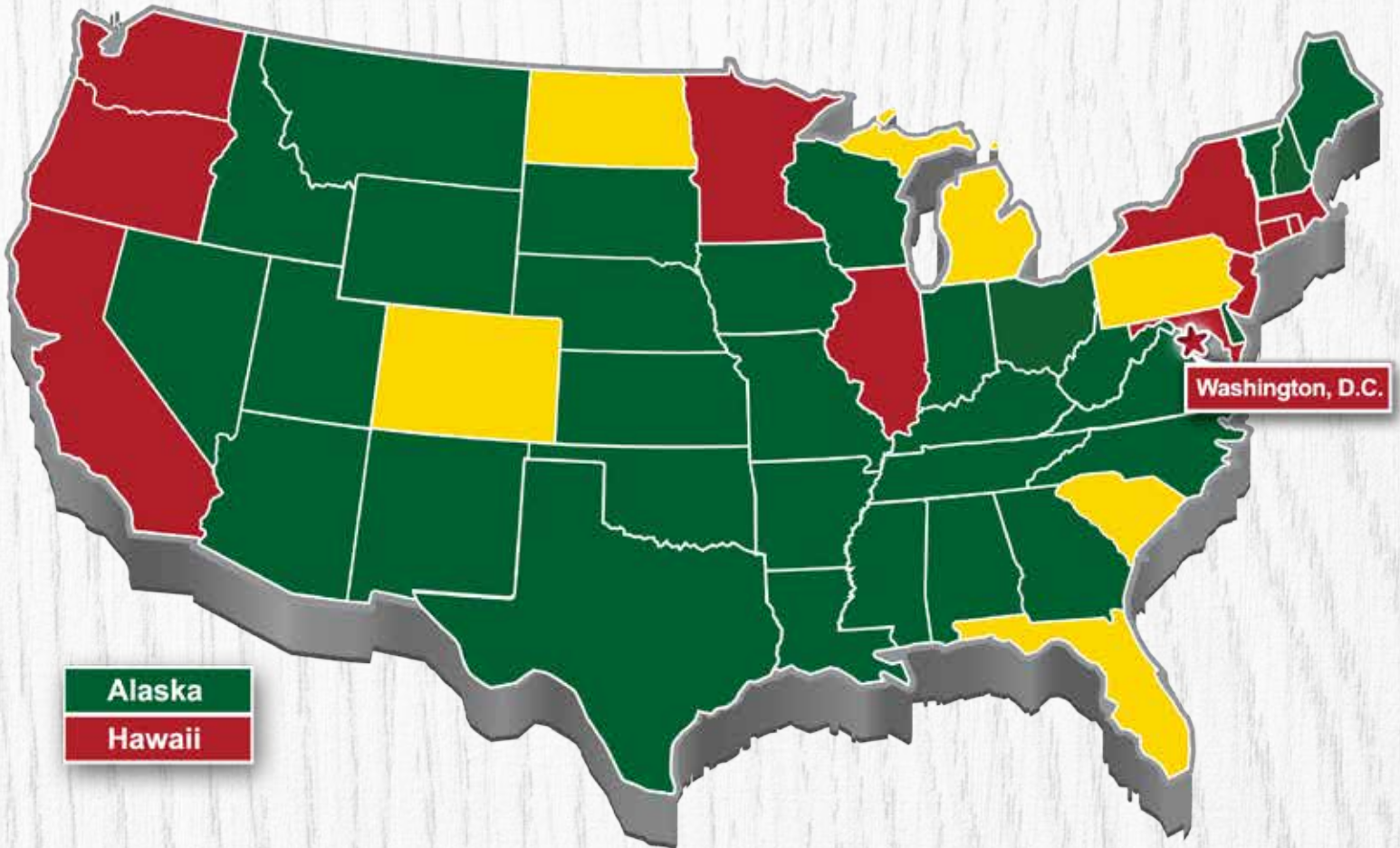





**WE DEFEND YOUR
RIGHT TO BEAR ARMS**



TEXAS RECIPROCITY MAP

Which States Recognize a Texas License to Carry?



-  Recognizes a Texas license or does not require a license.
-  Recognizes Texas resident license only.
-  Does not recognize a Texas license.

Important Note: There may be additional restrictions on carrying a handgun in states that do not require a license or permit (e.g., must be 21 years of age or older, must not otherwise be prohibited from possessing a firearm, etc.). **CHECK THE LAW BEFORE YOU TRAVEL.**



TRAVEL AND FIREARMS

IF YOU ARE NOT IN TEXAS



YOU ARE LEAVING TEXAS

Texas and Texans are unique in this world. As you might expect, gun laws in Texas are also unique. Our state's firearms laws, in some manners, are more restrictive than other states by comparison. In other circumstances, Texas laws are less restrictive. If travel plans take you beyond the borders of the Lone Star State and you wish to continue exercising your 2nd Amendment rights in one of the other states in the Union, familiarize yourself with that state's laws! When you are in another state, you are subject to that state's laws. There is no standardization of gun laws within the 50 individual states (not to mention Native American Reservations and Lands). Even states that are thought of as "gun friendly" can have peculiar quirks in their firearms laws. For example:

OKLAHOMA

Oklahoma prohibits the concealed or open carry of any handgun larger than .45 caliber.

NEW MEXICO

New Mexico prohibits carrying more than one concealed handgun on your person at a time but allows the open carrying of multiple firearms on your person or in the vehicle.

LOUISIANA

Louisiana law allows a license holder to carry a handgun in a church, synagogue, mosque, or other similar place of worship only if the person carrying receives authorization from the person who has authority over the administration of the church, synagogue, mosque, or other similar place of worship.



EACH STATE HAS DIFFERENT GUN LAWS

The firearms laws of the various states are usually found on that state's chief law enforcement department, attorney general, or department of justice website. If you are traveling to or through a state that does not honor a Texas license, it is imperative that you check the laws of that state concerning legally traveling with a firearm. States that do not recognize a Texas license might strictly prohibit possession of firearms, certain magazines, or ammunition. Traveling to these states can be a costly mistake resulting in felony charges and imprisonment. If you are only traveling through one of these states, you may be eligible for protections under 18 U.S.C. § 926A (see below). Take the time to know the law!

"Notwithstanding any other provision of any law or any rule or regulation of a State or any political subdivision thereof, any person who is not otherwise prohibited by this chapter from transporting, shipping, or receiving a firearm shall be entitled to transport a firearm for any lawful purpose from any place where he may lawfully possess and carry such firearm to any other place where he may lawfully possess and carry such firearm if, during such transportation the firearm is unloaded, and neither the firearm nor any ammunition being transported is readily accessible or is directly accessible from the passenger compartment of such transporting vehicle: Provided, That in the case of a vehicle without a compartment separate from the driver's compartment the firearm or ammunition shall be contained in a locked container other than the glove compartment or console." 18 U.S.C. § 926A.



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CONSTITUTIONAL CARRY AND WHY TO OBTAIN A LICENSE TO CARRY

WHY SHOULD I STILL GET A LICENSE?



IN TEXAS

TEXAS CONSTITUTIONAL CARRY QUALIFICATIONS

You may be asking yourself: “If I am a law-abiding person and I can now carry a handgun without a license, should I get my Texas License to Carry (LTC)?” The resounding answer is YES. There are many circumstances where acquiring and renewing your LTC are beneficial and, in some instances, necessary.

THE LAW GIVES LTC HOLDERS MORE RIGHTS

Even with the Firearm Carry Act of 2021 becoming Texas law on September 1, 2021, there remain several advantages under state law for individuals carrying LTCs, including reciprocity, the ability to carry into some otherwise prohibited locations, and expedited firearm purchases.

RECIPROCITY: TEXAS LTC OUT-OF-STATE RECOGNITION

- Of primary importance to many people is carrying a handgun for self-defense while traveling to other states. Most states will honor a Texas LTC, and several states have permitless carry.
- However, if you want to lawfully carry your handgun in the following states, you will be required to have an LTC: Alabama, Colorado, Delaware, Florida, Georgia, Indiana, Iowa, Louisiana, Michigan, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, Wisconsin, and Wyoming.

FEDERAL GUN-FREE SCHOOL ZONES

- Generally, the Federal Gun-Free School Zones Act prohibits carrying a firearm within 1,000 feet of a public, parochial, or private elementary, middle, or high school. There are several exceptions to this law; primarily among them is this prohibition does not criminalize the carrying of a firearm by a person who holds a handgun permit or license from the state where the school is located. This means a person who carries an accessible handgun in their vehicle while picking up or dropping off their child without a Texas LTC violates federal law; whereas a Texas LTC holder does not. 18 U.S.C. 922(q).

FAST LANE FOR FIREARM PURCHASES (AVOID BACK- GROUND CHECK DELAY)

- Generally, every person who purchases a firearm from a Federal Firearms Licensed dealer (“FFL”) is subject to a background check through the National Instant Criminal Background Check System (“NICS”). This can lead to delays and erroneous denials due to mistaken identity. However, a NICS background check may not be required if the transferee is legally exempt for reasons such as possessing a state-issued firearms license like a Texas LTC. See 18 U.S.C. 922(t)(3).



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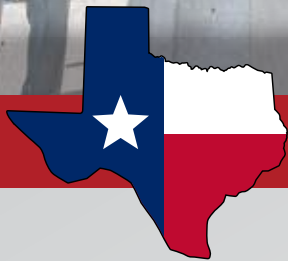


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CONSTITUTIONAL CARRY AND WHY TO OBTAIN A LICENSE TO CARRY

WHY SHOULD I STILL GET A LICENSE?



IN TEXAS (Continued...)

SCHOOL DISTRICT EMPLOYEES WHO HAVE AN LTC ARE PROTECTED

- If you are an employee of a school district and have been issued a Texas LTC, Texas law protects your right to keep a firearm and ammunition concealed in your locked motor vehicle while it is parked in a school parking lot. In fact, Texas law prevents the school district from imposing any duties, restrictions, or reporting requirements on where or how your firearms and ammunition are stored.
- However, these protections are not given to employees who do not possess a valid handgun license. See Tex. Edu. Code Sec. 37.0815.

PRIVATE PROPERTY OWNERS MAY NOT ALLOW CONSTITUTIONAL CARRY

- There may be private property owners who have grown comfortable with license holders carrying openly or concealed in their places of business but are uneasy with the thought of unlicensed individuals exercising their right to carry on their property. The unlicensed people can be prevented with effective notice under the general criminal trespass statute, Tex. Penal Code Sec. 30.05.
- However, this section does not apply to license holders. In the event a property owner wants to prevent license holders from carrying, they are still required to provide effective criminal trespass notices under Tex. Penal Code Secs. 30.06 (for concealed carry) and 30.07 (for open carry).

LTC HOLDERS ARE ENTITLED TO MORE NOTICE AT SOME PROHIBITED LOCATIONS

- Hospitals, nursing facilities, and amusement parks continue to be statutorily prohibited places for a person carrying a handgun under the authority of Texas Constitutional Carry. However, to enforce this prohibition against license holders, effective Tex. Penal Code Secs. 30.06 and/or 30.07 notice is required. See Tex. Penal Code Sec. 46.15(p). Also, open meetings of governmental entities are no longer prohibited to license holders carrying a handgun under the authority of their LTC. See Tex. Penal Code Sec. 46.15(b)(6).
- The statutory prohibition against carrying a handgun into a bar does not apply to a license holder unless the bar has posted its 51% sign in accordance with the law. See Tex. Penal Code Sec. 46.15(p).
- The campus of an institution of higher learning also holds some benefits for the holder of a Texas LTC. An unlicensed, constitutional carrier will now be allowed to walk the parking lots, parking garages, streets, sidewalks, and walkways of a college campus, as well as grounds where a school-sponsored activity is NOT taking place.

- However, once that individual reaches the threshold of a building or sporting event of that college or university, they cannot carry. Alternatively, a person who holds a Texas LTC will be able to conceal his or her handgun and walk into that building or sporting activity as long as there is not a 30.06 sign. See Tex. Penal Code Secs. 46.03(a-2), (a-3), and (a-4).

LTC HOLDERS ARE ALLOWED “OOPSIES” AT AIRPORTS

- When traveling by air, a license holder retains their ability to avoid arrest in the event they inadvertently leave their handgun in their carry-on baggage, as long as they promptly depart the secured area when notified they are in possession of a handgun. The unlicensed individual who leaves a handgun in their carry-on bag is given no such courtesies and may find themselves charged with a felony. See Tex. Penal Code Secs. 46.03(e-1) and (e-2).

CARRYING A HANDGUN WITH AN LTC WHEN UNDER THE AGE OF 21

- An individual must be 21 years of age or older in order to take advantage of the right to carry a handgun under the Firearm Carry Act of 2021. However, members of the military (or those honorably discharged) remain eligible to obtain an LTC if they are between the ages of 18 and 20. This means that a 19-year-old member of the U.S. military may obtain the right to lawfully carry a handgun in public once they acquire an LTC. See Tex. Gov. Code Sec. 411.172(g).



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NOTES



A large, blank sheet of cream-colored lined paper with light blue horizontal ruling and a vertical red margin line on the left side, intended for taking notes.



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LEGAL DEFENSE®
FOR
SELF DEFENSE

WHAT IS U.S. LAWSHIELD®?

The U.S. LawShield Legal Defense for Self Defense® Program is dedicated to preserving the Constitutional rights of self-preservation for all persons in Texas and ensuring legal representation for our members who have to use a firearm or other legal weapon. In addition, a cornerstone of our program is education in self-defense law. An informed citizenry is essential to preserve our country's rich heritage and all of our rights.

UNDERSTANDING YOUR BOOKLET

This booklet is a guide to when you may or may not use deadly force in the State of Texas; it demystifies the criminal process, attempts to explain some otherwise murky legal concepts, and most importantly, helps you identify when you may use deadly force to defend yourself, others, or property. Prepared by a team of lawyers and industry experts, this booklet is the result of extensive legal research and real-world experience dealing with the system. It was written by lawyers who work in this area on a daily basis and have extensive experience with firearms and the law relating to firearms. This wealth of knowledge has been distilled into this booklet, which provides concepts and rules of law in a simple and understandable format.

With that said, this booklet is not a substitute for a lawyer. Many volumes of books have been written on these topics, and one could spend many lifetimes studying these complex issues of law. As such, we have attempted to condense these points into a digestible format that can be read within a reasonable time frame, but there are complex nuances in the laws that are not all covered. This booklet is not all-encompassing. This booklet is, instead, an aid, a starting foundation, helping you with the first steps of your journey to understand the legal system and laws pertaining to the use of deadly force.

Any of the information in this booklet is solely a general legal discussion of the law of Texas and should not be considered as giving legal advice, nor creating an attorney-client relationship. This booklet is not a substitute for legal advice on any particular situation. Your situation may be different, so contact an attorney regarding your personal circumstances. Only a licensed attorney may give you legal advice.

*Please call our office for more information at 877-448-6839
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