



Street Smart Houston: Know Your Rights!





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This is the first publication of **Street Smart Houston**. It has been prepared by Texas C-BAR, a project of Texas RioGrande Legal Aid.

We have developed this booklet to provide useful information about laws that may affect people who are homeless in Houston, Texas. Specific questions and incidents can be address by contacting Lone Star Legal Aid at 1415 Fannin Street, Houston, Texas 77002 or (713) 652-0077.

This document is not a substitute for the advice of an attorney. The materials and information contained in this document may not reflect the most current legal developments.

If you have any suggestions or corrections, please contact djohnson@texasbar.org or call (800) 369-9270, ext. 2760.

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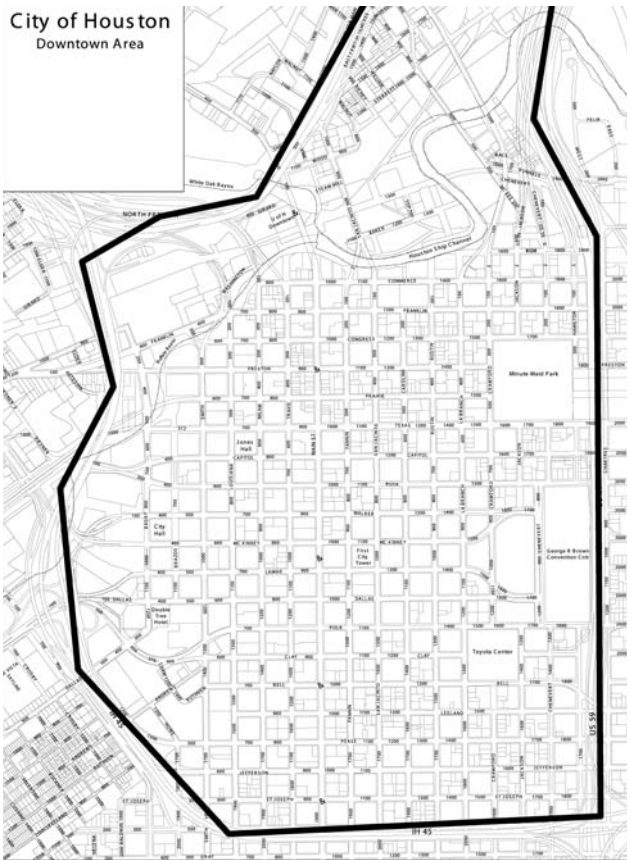
Table of Contents

1.1 Sitting, Lying Down or Blocking a Sidewalk or Roadway	3
2.1 Jaywalking (applies across the City of Houston)	7
3.1 Loitering	8
4.1 Criminal Trespass	8
5.1 Criminal Mischief	8
6.1 Disorderly Conduct	9
7.1 Public Nudity, Urination, Defecation, and Entering Restrooms of the Opposite Sex	9
8.1 Public Lewdness	10
9.1 Dogs in Certain Public Buildings	11
10.1 Assault	11
11.1 Weapons	12
12.1 Use of Parks	13
13.1 Playing Music in Public for Contributions	14
14.1 Panhandling or Begging	14
15.1 Repeated Following and Harassment	15
16.1 Prostitution	15
17.1 Alcoholic Drinks and Controlled Substances	15
18.1 Loitering and Removing Contents of Waste Containers	17
19.1 Smoking	18
20.1 Dealing with a Police Officer	18
21.1 Warrants	20
22.2 Resources	21

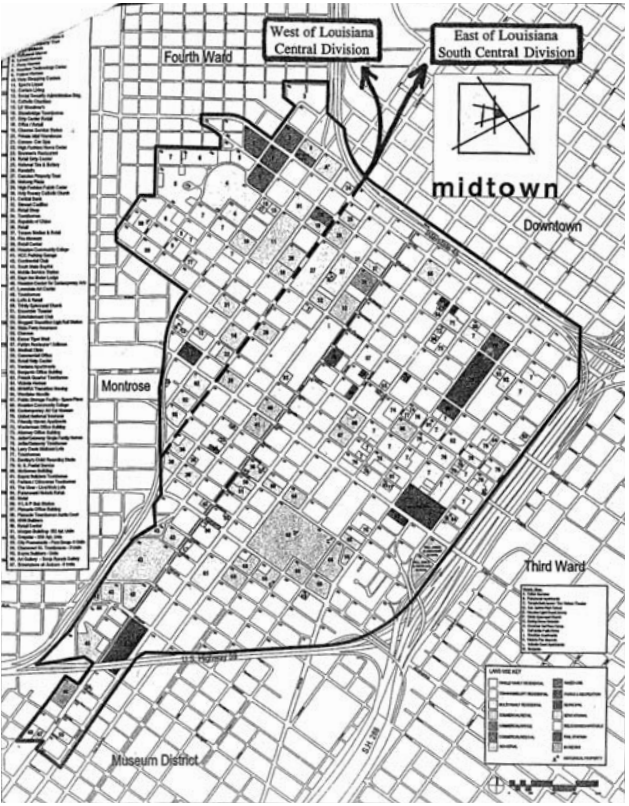
1.1 Sitting, Lying Down or Blocking a Sidewalk or Roadway

1.2 [Maps of the five “Designated areas: (1) The Central Business District; (2) Midtown Area; (3) Old Sixth Ward Area; (4) Avondale Area; and (5) Greater Hyde Park Area, approved by the city council under section 40-353 of the Houston City Ordinances]

(1) The Central Business District



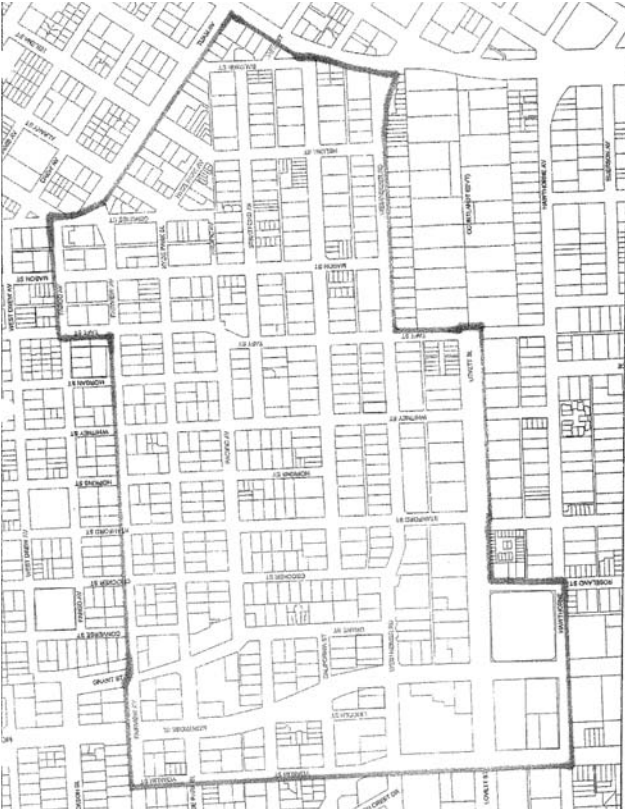
(2) Midtown Area



(3) Old Sixth Ward Area



(4) Avondale Area



(5) Greater Hyde Park Area



The areas shown on the above maps constitute “Designated areas” with the following specific restrictions:

1.3 Houston city ordinances say that **after being notified or warned by a police officer of the rules**, it is illegal to continue to do the following in the areas shown above between the hours of 7:00 a.m. and 11:00 p.m.:

- Sit or lie down on a sidewalk or on a blanket, stool, or any other object placed upon a sidewalk; or
- Place or deposit any item of bedding materials or personal possessions, including but not limited to any blanket, bag, package, or container of personal possessions on a sidewalk.¹

1.4 Exceptions to the sitting, lying and blocking laws:²

- Experiencing a medical emergency;
- Using a wheelchair, walker, or similar device because of a disability;
- Operating or patronizing a commercial establishment or service or governmental function conducted on the sidewalk pursuant to a permit or authorization issued in accordance with the law;
- Sitting on a public chair or bench;
- Sitting or waiting for public or private transportation or waiting for access to enter a building; or
- Participating in or watching a parade, festival, performance, rally, demonstration meeting, or similar event lawfully conducted on the public street or sidewalk.

1.5 Penalty: Misdemeanor punishable by a fine not exceeding \$500.³

1 City of Houston Code of Ordinances § 40-352(a) & (b).

2 City of Houston Code of Ordinances § 40-352(c)

3 City of Houston Code of Ordinances § 28-47(f), § 1-6.

1.6 City-wide Restriction Against Blocking a sidewalk or roadway. In addition to the above, it is illegal to place, cause, or allow any impairment or obstruction of a sidewalk or roadway, except as authorized by a permit.⁴

1.7 Exceptions to the restriction against blocking a sidewalk or roadway include:

- a vehicle that is lawfully stopped or parked, has been rendered inoperable by mechanical failure or accident;
- a sign or display utilized as part of a lawfully conducted demonstration or rally provided that it does not obstruct or impair traffic and is used or displayed only during the demonstration or rally and removed at the conclusion of the demonstration or rally;
- a lawfully conducted parade; or
- an emergency.

1.8 Penalty: Misdemeanor punishable by a fine not exceeding \$500.⁵

2.1 Jaywalking

2.2 If there is a crosswalk nearby, you must use a crosswalk.⁶

2.3 When crossing the street, you must cross in a straight line, not diagonally.⁷

2.4 If there is a sidewalk near you, you must use the sidewalk and not walk in the street.⁸

2.5 Penalty: Between \$1 and \$200.⁹

⁴ City of Houston Code of Ordinances § 40-362.
It is important to note that this restriction applies throughout the City of Houston.

⁵ City of Houston Code of Ordinances § 28-47(f), §. 1-6.

⁶ Transportation Code § 552.005(b)

⁷ Transportation Code § 552.005(c)

⁸ Transportation Code § 552.005(a)

⁹ Transportation Code § 542.401

3.1 Loitering

3.2 Houston city ordinances say that you may not loiter if you intend to commit prostitution.¹⁰

3.3 Penalty: Misdemeanor punishable by a fine of not less than \$500.00 nor more than \$2,000.00 with conduct that also constitutes an offense under state law being punishable as provided in the applicable state law.¹¹

4.1 Criminal Trespass¹²

4.2 You commit criminal trespass when you:

- Enter onto another's property without permission and
- There is a "No Trespassing" sign; or
- Stay on the property after someone tells you to get off.

4.3 Penalty: Class B misdemeanor, which may be punished by a fine up to \$2,000 and/or 180 days in jail.

5.1 Criminal Mischief

5.2 You commit criminal mischief when you do the following to someone's property without their permission:¹³

- Destroy;
- Tamper; or
- Make markings, inscriptions or drawings.

5.3 Penalty: Ranges from a Class C misdemeanor to a felony of the first degree depending on value of property destroyed or vandalized.

10 City of Houston Code of Ordinances § 28-48.

11 City of Houston Code of Ordinances § 28-48.

12 Texas Penal Code § 30.05

13 Texas Penal Code § 28.03

6.1 Disorderly Conduct

6.2 You may be charged with disorderly conduct if you:¹⁴

- Use vulgar language that will cause "a breach of the peace" (i.e. violence);
- Make a gesture or display that will cause a "breach of the peace";
- Create an unreasonable odor or smell;
- Abuse or threaten someone in an offensive manner;
- Make too much noise;
- Fight with someone;
- Enter private property and look into someone's window; or
- Go into a public bathroom or shower stall and look at someone.

6.3 Penalty: Class C misdemeanor.

6.4 If you expose your anus or genitals, you could be charged with disorderly conduct. However, if you expose your anus or genitals for sexual gratification or arousal, you will be cited for indecent exposure.¹⁵

6.5 Penalty for indecent exposure: Class B misdemeanor.

7.1 Public Nudity, Urination, Defecation, and Entering Restrooms of the Opposite Sex

7.2 It is illegal for any person to appear on any public street, sidewalk, alley, or other public thoroughfare, in or such close proximity thereto, as to be observed by the public traveling on such street sidewalk, or other public thoroughfare, in a state of complete nudity, or in such a manner of dress or of undress in a manner which exposes to the public view such person's genitalia and/or buttocks, and in the case of a female, the female breasts.¹⁶

¹⁴ Texas Penal Code § 42.01

¹⁵ Texas Penal Code § 21.08

¹⁶ City of Houston Code of Ordinances § 28-18.

7.3 It is illegal for any person to urinate or defecate in any public place or in immediate proximity thereto where such place has not been designated as a restroom.¹⁷

7.4 It is illegal for any person to knowingly and intentionally enter any public restroom designated for the exclusive use of the sex opposite to such person's sex without the permission of the owner, tenant, manager or other person in charge of the premises, in a manner calculated to cause a disturbance.¹⁸

7.5 While riding on buses or other motor vehicles engaged in mass transportation, you may not:

- Consume any food or beverage;
- Throw or deposit any garbage, refuse, containers, wrappings, or other trash inside the vehicle except in a designated trash receptacle; or
- Play radios or other electronic devices in such a manner as to be plainly audible to any other person inside the motor vehicle.¹⁹

7.6 Penalty: A person may be removed from bus with the possibility of permanently losing bus-riding privileges.

8.1 Public Lewdness

8.2 It is illegal to have the following in a public place:²⁰

- Sexual intercourse; or
- Any sexual contact, which is touching another's genitals or breast in order to arouse.

8.3 Penalty: Class A misdemeanor, which may be punished by a fine up to \$4,000.00 and/or one year in jail.

8.4 Additionally, it is illegal to bring together, offer to bring together, or assist in bringing together, two or more persons for the purpose of lewdness, assignation or prostitution.²¹

17 City of Houston Code of Ordinances § 28-19.

18 City of Houston Code of Ordinances § 28-21.

19 City of Houston Code of Ordinances § 28-30.

20 Texas Penal Code § 21.07

21 City of Houston Code of Ordinances § 28-15.

9.1 Dogs in Certain Public Buildings

9.2 It is illegal for any person having control over a dog to bring such animal into a building which is under the management of the convention and entertainment facilities department or the Houston Public Library System, or to permit a dog under his control to be within such a building.²²

9.3 Exceptions:

- The dog is owned by the city;
- The dog is a guide dog accompanying a blind person;
- The dog is brought into a facility in accordance with the terms of a rental agreement under which such facility had been rented from the city; or
- The dog is only in areas solely used for parking of motor vehicles.

10.1 Assault

10.2 You commit assault when you:²³

- Cause an injury to another or your spouse;
- Threaten to injure another person or your spouse; or
- Cause contact you know the other person will find offensive.

10.3 Penalty: Causing an injury is a Class A misdemeanor. Threatening injury or offensively touching someone is a Class C misdemeanor. If you live with or are related to the victim, the penalty could be increased because it may be classified as domestic assault.

10.4 Penalty for domestic assault: The first offense is a Class A misdemeanor. Subsequent convictions are third degree felonies, which may be punished by a fine up to \$10,000 and between two to ten years in jail.

22 City of Houston Code of Ordinances § 28-31.

23 Texas Penal Code § 22.01

11.1 Weapons

11.2 Texas state law defines an “illegal knife” as a:²⁴

- Knife with a blade over five and one-half inches;
- Hand instrument designed to cut or stab another by being thrown;
- Dagger, including but not limited to a dirk, stiletto and poniard;
- Bowie knife;
- Sword; or
- Spear.

11.3 Texas state law says that it is illegal to carry the following on or near you²⁵ (in your pocket, pants, glove compartment, etc.):²⁶

- Handgun;
- Illegal knife; or
- Club.
 - A club is defined as a:
 - * Blackjack;
 - * Nightstick;
 - * Mace; or
 - * Tomahawk.

11.4 Penalty: Class A misdemeanor.

11.5 It is illegal to possess any stone, bolt, rock, piece of iron or other missile or hard object with the intent to injure or do harm to any person or to property, or with the intent to commit any unlawful act.²⁷

24 Texas Penal Code § 46.01

25 The penal code states “about his person,” where “about” has been defined as “near by, close at hand, convenient of access, and within such distance of the person in question that the person could without materially changing

position, place a hand on the weapon,” Courtney v. State, 424 S.W.2d 440 (Tex. Crim. App. 1968).

26 Texas Penal Code § 46.02

27 City of Houston Code of Ordinances § 28-3.

12.1 Use of Parks

12.2 Hours closed to the public. No park facility shall be open to members of the public between the hours of 11:00 p.m. and 6:00 a.m. unless other public use or visitation hours have been posted for the facility.²⁸

12.3 Penalty: failing to leave after being requested to do so when the facility is closed or otherwise being on notice that the facility is not open to the public may result in prosecution for criminal trespass pursuant to Section 30.05 of the Texas Penal Code.²⁹

12.4 It is unlawful to use any area of city parks as a campsite unless the area has been designated for overnight camping pursuant to the rules and regulations established by the parks director.³⁰

12.5 Teasing, annoying, molesting, catching, throwing objects at, or striking any animals located in city parks is prohibited.³¹

12.6 Walking, standing, or sitting on any border, flower bed, monument, vase, fountain, railing, or fence in a city party is prohibited.³²

12.7 The possession of any glass receptacle is not allowed in city parks.³³ Exceptions are:

- Baby bottles;
- Baby food jars;
- Glass lined vacuum bottles; and
- Glass lined picnic beverage coolers.³⁴

28 City of Houston Code of Ordinances § 32-41.

29 City of Houston Code of Ordinances § 32-41.

30 City of Houston Code of Ordinances § 32-28.

31 City of Houston Code of Ordinances § 32-31.

32 City of Houston Code of Ordinances § 32-33.

33 City of Houston Code of Ordinances § 32-27.

34 City of Houston Code of Ordinances § 32-27.

12.8 It is unlawful to place, erect, or attach any structure, sign, bulletin board, post, pole or advertising device of any kind in city parks or to attach any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure in the parks unless authorized by rule or regulation established by the park director.³⁵

13.1 Playing Music in Public for Contributions

13.2 It is illegal to play music in the street or in other public places in the city, with the intent of taking up a collection from bystanders.³⁶

13.3 Penalty: Misdemeanor punishable by a fine not exceeding \$500.

14.1 Panhandling or Begging

14.2 Note: These laws change frequently.

14.3 Panhandling (or soliciting for money) is legal in some areas of the city of Houston as long as the panhandler does not become aggressive.

14.4 Places panhandling is prohibited:

- Within 8 feet of an ATM, pay telephone, parking meter, parking fee collection box, transit facility, or fuel dispensing device;³⁷ or
- In a roadway.³⁸

14.5 Additionally, panhandling within a distance of eight feet is prohibited after a request is made to discontinue the panhandling.³⁹

14.6 Penalty: Misdemeanor punishable by a fine not exceeding \$500.

35 City of Houston Code of Ordinances § 32-32.

36 City of Houston Code of Ordinances § 28-6.

37 City of Houston Code of Ordinances § 28-46(d).

38 Tex. Trans. Code § 552.007(a).

39 City of Houston Code of Ordinances § 28-46(b)

15.1 Repeated Following and Harassment

15.2 It is unlawful to repeatedly harass or follow any other person under circumstances in which that person has previously harassed the person being followed.⁴⁰

15.3 Penalty: Misdemeanor punishable by a fine not less than \$100 and not more than \$500, but if conduct also constitutes an offense under state law, it shall be prosecuted pursuant to and punishable as provided in the applicable state law.⁴¹

16.1 Prostitution

16.2 Prostitution is defined as offering, agreeing, or engaging in sexual conduct for a fee.⁴²

16.3 Penalty: First offense is a Class B misdemeanor. Second or third offense is a Class A misdemeanor. A fourth offense is a state jail felony.

16.4 Houston city ordinances prohibit loitering in a public place for the purpose of engaging in prostitution.⁴³

16.5 An officer may not arrest the person without giving them an opportunity to explain what they are doing. See also Section 3: Loitering.

17.1 Alcoholic Drinks and Controlled Substances

17.2 Laws specific to the Central Business District (see Map 1 in Section 1)

40 City of Houston Code of Ordinances § 28-45(b).

41 City of Houston Code of Ordinances § 28-45(d).

42 Texas Penal Code § 43.02

43 City of Houston Code of Ordinances § 28-48.

17.3 In the Central Business District it is illegal to:

- Be in possession of an open container of an alcoholic beverage; or
- Engage in the public consumption of any alcoholic beverage.⁴⁴

17.4 Exceptions: when the alleged offense took place in:

- A motor vehicle;
- A building not owned or controlled by the city;
- A residential structure; or
- On a licensed premises for which a permit or license for on-premises consumption of alcoholic beverages has been issued.⁴⁵

17.5 Penalty: Misdemeanor punishable by a fine not exceeding \$500.⁴⁶

17.6 Note: You may NEVER drink alcohol:

- Within 1,000 feet of a pre-K, elementary, junior high, or senior high school;⁴⁷
- At a bus stop;⁴⁸ or
- On premises not licensed for on-premise consumption.⁴⁹

17.7 Penalty: Class C misdemeanor.

17.8 Note: A city may prohibit the possession of an open container or consumption of an alcoholic beverage on public property, within 1,000 feet of a homeless shelter or substance abuse treatment center.⁵⁰

17.9 Note: Public intoxication is a state crime.⁵¹

⁴⁴ City of Houston Code of Ordinances § 3-3.

⁴⁵ City of Houston Code of Ordinances § 3-3.

⁴⁶ City of Houston Code of Ordinances § 28-47(f), §. 1-6.

⁴⁷ Alcoholic Beverage Code § 101.75

⁴⁸ Texas Transportation Code § 451.1075.

⁴⁹ Texas Alcoholic Beverage Code § 101.72(a).

⁵⁰ Alcoholic Beverage Code § 109.36

⁵¹ Texas Penal Code § 49.02

17.10 Penalty: Class C misdemeanor. If you are under 21, not a child, and have been convicted twice before, then you can be fined between \$250 and \$2,000 AND sentenced to jail for 180 days.⁵²

17.11 Houston city ordinances say you must not ask another person to sell a prohibited controlled substance.⁵³

17.12 Houston city ordinances prohibit sales of aerosol paint or shoeshine products, abusable glue, or nitrous oxide to a person under 18 years of age.⁵⁴

17.13 Penalty: Misdemeanor punishable by a fine not less than \$100.00 to more than \$2,000.00 for each offense.⁵⁵

18.1 Littering and Removing Contents of Waste Containers

18.2 Houston city ordinances prohibit the depositing of solid waste upon sidewalks, public streets, curbs, or other public places of the city except in accordance with regulated collection procedures.⁵⁶

18.3 It is unlawful for any person to scavenge from, disturb, or remove any contents of any bin, bag, or other container that has been placed for collection of garbage or recyclable materials at the designated location for pickup by a collection service.⁵⁷

18.4 Penalty: Misdemeanor with fine of not less than \$50.00 nor more than \$2,000.00 for the first offense, and, upon each subsequent offense, by a fine of not less than \$250.00, nor more than \$2,000.00.⁵⁸

52 Alcoholic Beverage Code § 106.071

53 City of Houston Code of Ordinances § 28-44

54 City of Houston Code of Ordinances § 28-21.

55 City of Houston Code of Ordinances § 28-22.

56 City of Houston Code of Ordinances, § 39-3.

57 City of Houston Code of Ordinances, § 39-2.

58 City of Houston Code of Ordinances, § 39-4.

19.1 Smoking

19.2 Houston city ordinances say you cannot smoke in an enclosed public place, inside a place of employment, seating areas at outdoor sporting and other public events, covered public transportation facilities, or within 25 feet outside entrances of an area where smoking is prohibited.⁵⁹

19.3 Exceptions are limited to private residences and certain other locations with designated smoking areas.⁶⁰

19.4 Penalty: Misdemeanor punishable by fine not to exceed \$2,000.00.

20.1 Dealing with a Police Officer

Below are some of the main laws about speaking or dealing with a police officer. These are not all the laws but only a guide.

20.2 Texas state law says you may not:

- Refuse to give your name, address⁶¹, or date of birth when asked by a police officer after you have been arrested.⁶²
 - * **Penalty:** Class C misdemeanor.
- Give a false name, address, or date of birth to a police officer after you have been arrested, stopped (detained), or if you are a witness to a crime.⁶³
 - * **Penalty:** Class B misdemeanor.
- Leave a police officer who is trying to arrest or stop (detain) you.⁶⁴
 - * **Penalty:** Class B misdemeanor.

59 City of Houston Code of Ordinances, § 21-237, § 21-238, § 21-239, § 21-240, § 21-241.

60 City of Houston Code of Ordinances, § 21-242.

61 If you are homeless, you may say you do not have an address.

62 Texas Penal Code § 38.02 (a)

63 Texas Penal Code § 38.02 (b)

64 Texas Penal Code § 38.04

- Prevent or obstruct a police officer or a person under the police officer’s direction if they are trying to arrest, search, or transport you or someone else.⁶⁵
 - * **Penalty:** Class A misdemeanor.
- Hinder, hide, or help someone who is being arrested or detained by a police officer.⁶⁶
 - * **Penalty:** Class A misdemeanor.

20.3 Additionally, it is unlawful to refuse to obey a request by a policeman for assistance in making an arrest, or in executing any other duty under any law of the city in relation to public offenses within the city, so long as the officer is in uniform or presents official police department identification; nor shall any person willfully fail or refuse to comply with any lawful order, direction, or signal of any police or fire department officer with authority to direct, control, or regulate traffic.⁶⁷

20.4 You have the right:

- After you have given the police officer your name, address, and date of birth, you have the right not to answer a police officer’s questions even if you are only a witness to a crime.⁶⁸
- You have a right to stop answering questions, even if you have already answered some of a police officer’s questions.
- You have the right to object to a search by a police officer,⁶⁹ but do not physically resist the officer’s arrest.
- You have the right to be free from excessive force.⁷⁰
- You have a right to ask a police officer and be told his or her name and badge number.⁷¹

20.5 How do you know when you are under arrest?

- You may be under arrest without the police officer saying the word “arrest.”
- You are arrested when the police officer takes you into custody or deprives you of your freedom of movement in a significant way.⁷²

65 Texas Penal Code § 38.04
 66 Texas Penal Code § 38.03
 67 City of Houston Code of Ordinances, § 34-27, 45-11.
 68 Texas Penal Code § 38.05
 69 U.S. Const. 5th Amendment

70 U.S. Const. 4th Amendment
 71 Internal police policy
 72 “If You Are Arrested,” State Bar of Texas

- A police officer may detain you without arresting you. The officer may detain you if he suspects you may be involved in criminal activity. After a temporary detention, a police officer must either arrest you or let you go.
- If you are not sure, ask the police officer if you are under arrest and why!

20.6 A police officer has the right to administer a “pat down” if he/she has a reasonable belief that you are carrying weapons.⁷³

21.1 Warrants

21.2 A warrant is an order from a judge instructing the police to arrest an individual accused of violating a law(s).

21.3 If you fail to make a plea to each violation on a ticket within 30 days, the court will:

- Issue a warrant;
- Charge the standard fine plus \$50; and
- Send a request to the Texas Department of Public Safety for Denial of Drivers License or Identification Card.

21.4 Note: Tickets are not always turned in to the court in a timely fashion. You must continue to show up in court and attempt to make a plea.

21.5 If there is a warrant for your arrest, a police officer may stop and arrest you even if the police officer has not witnessed you doing anything illegal.

⁷³ Terry v. Ohio, 392 U.S. 1 (1968)

22.1 Resources

22.2 To apply for legal services or to make referrals, contact:

Lone Star Legal Aid

Houston Office

1415 Fannin Street

Houston, Texas 77002

Phone: (713) 652-0077

Toll-free: (800) 733-8394

For local contact information, visit the website at:

www.lonestarlegal.org

22.3 Houston Homeless Court is a special court session within the City of Houston's Municipal Courts for homeless defendants to address misdemeanor offenses and warrants.

For more information on Homeless Court, ask at a local homeless shelter or at:

Coalition for the Homeless

811 Dallas Street, Ste. 821

Houston, Texas 77002-7429

Phone: (713) 739-7514

Fax: (713) 739-8038

Email: info@homelesshouston.org

Notes:



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To apply for legal services or to make referrals, contact:

Coalition for the Homeless

811 Dallas Street, Ste. 821

Houston, TX 77002-7429

Phone: (713) 739-7514

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Email: info@homelesshouston.org

For local contact information visit their web site:

www.homelesshouston.org

