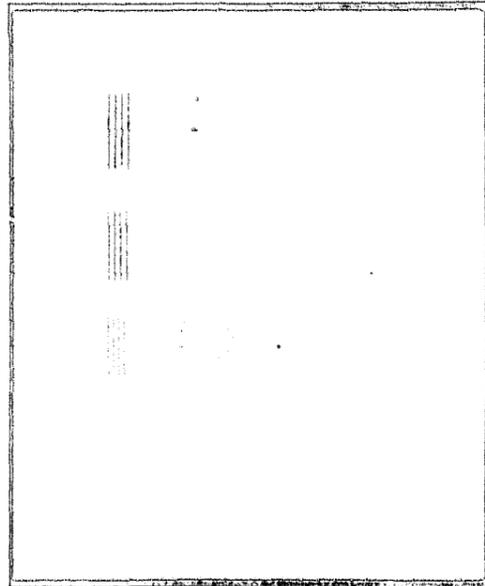


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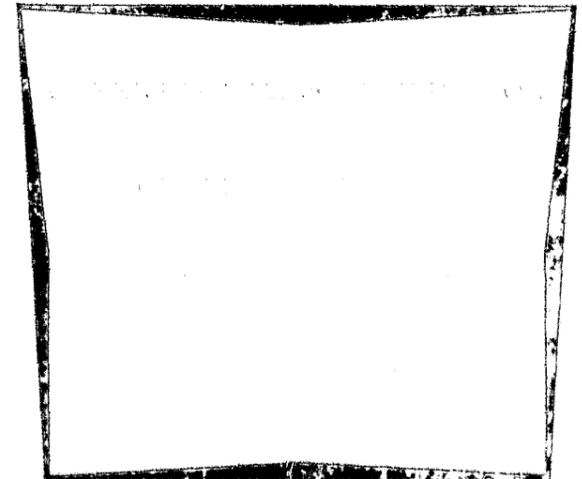
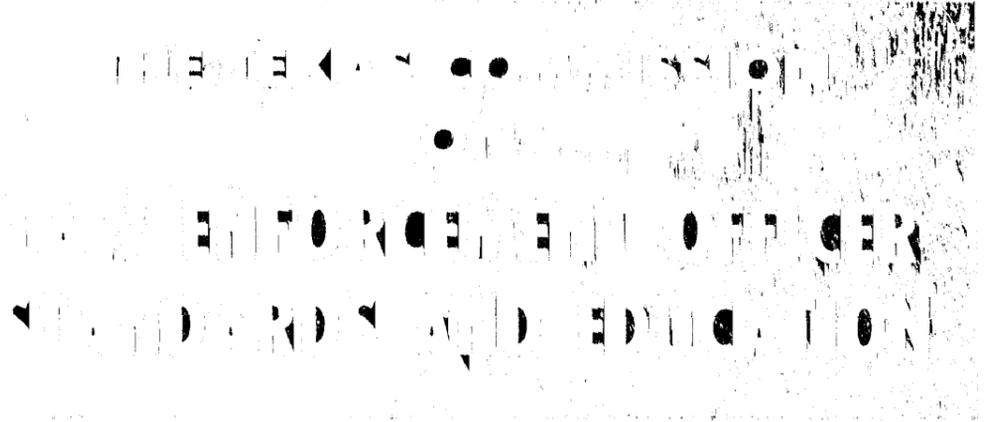
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OFFENSES AGAINST THE PERSON
OUTLINE OF TITLE 15
VERNON'S PENAL CODE OF THE STATE OF TEXAS

By

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Texas Commission on Law Enforcement
Officer Standards and Education

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TITLE 15

CHAPTER ONE

I. ART. 1138 - ASSAULT AND BATTERY

A. Definition of Assault and Battery:

1. The use of any unlawful violence on another
2. With intent to injure
3. Whatever the means or degree of violence.

B. Definition of Assault:

1. Any attempt to commit a battery
2. Any threatening gesture or threatening words
3. Showing intent, coupled with the ability to commit a battery.

II. ART. 1139 - INTENT PRESUMED, AND "INJURY"

A. Intent is presumed when injury is caused by violence

B. Proof of accident or innocent intention rests with person inflicting injury

C. Injury intended may be:

1. Bodily pain
2. Constraint
3. Sense of shame, or
4. Other disagreeable emotion.

III. ART. 1140 - HOW IT MAY BE COMMITTED

A. Assault and Battery may be committed by:

1. Use of any part of the body
2. Use of any inanimate object
3. Use of an animate object
4. Spitting in the face

B. Offense complete, though person injured not the person intended.

Chapter One - Continued

IV. ART. 1141 - "COUPLED WITH ABILITY TO COMMIT"

- A. In a position that, if not prevented, a battery will be inflicted
- B. Close enough to commit a battery by the means attempted
- C. Using dangerous weapon, or semblance thereof:
 - 1. With intent to alarm
 - 2. Under circumstances calculated to alarm.

V. ART. 1142 - LAWFUL VIOLENCE

- A. Violence not amounting to an assault and battery
 - 1. Moderate restraint or correction of:
 - a. Parent over child
 - b. Guardian over ward
 - c. Master over apprentice
 - d. Teacher over scholar
 - 2. Preserving order at lawful meetings
 - 3. Preserving peace and preventing offenses
 - 4. Preventing intrusion
 - 5. Making lawful arrests
 - 6. Self defense or defense of another.
- B. Only amount of force necessary to effect the lawful purpose may be used

VI. ART. 1143 - VERBAL PROVOCATION

- A. Verbal provocation does not justify assault and battery
- B. Insults and abusive words may mitigate punishment

VII. ART. 1144 - "BATTERY"

- A. Battery as used in the Code means Assault and Battery

Chapter One - Continued

VIII. ART. 1145 - PUNISHMENT

- A. Not less than \$5.00
- B. Not more than \$200.00

IX. ART. 1146 - INTIMIDATION

- A. Whosoever shall:
 - 1. By threatening words
 - 2. Acts of violence, or
 - 3. Intimidation
- B. Prevent or attempt to prevent another from:
 - 1. Engaging or remaining in, or
 - 2. From performing lawful employment.
- C. Punishment
 - 1. \$25.00 to \$500.00, or
 - 2. 1 to 6 months in jail

X. ART. 1146a - THROWING MISSILES AT ATHLETIC CONTEST OR GAMES

- A. Unlawful to throw:
 - 1. Bottle, pillow, cushion, rock or other missile
 - 2. At football, baseball or other athletic contest.
- B. Punishment
 - \$5.00 to \$25.00

CHAPTER TWO

AGGRAVATED ASSAULTS AND OTHER OFFENSES

I. ART. 1147 - DEFINITION--AGGRAVATED ASSAULT

A. An assault is aggravated when committed under the following conditions:

1. Striking an officer while he is discharging his duties
2. When committed in a Court of Justice
3. When committed in a place of worship
4. Where persons are gathered for purpose of innocent amusement
5. Striking an aged or decrepit person
6. Striking a person in a private home
7. Adult striking a child
8. Adult male striking a female
9. When means used will inflict disgrace
10. When serious bodily harm is inflicted
11. When committed with deadly weapons under circumstances not amounting to an intent to murder or maim
12. When committed with premeditated design and by use of means calculated to inflict great bodily injury.

B. Penalty

1. Not less than \$25.00 nor more than \$1,000.00
2. Jail--not less than one month nor more than two years, or by both fine and imprisonment

II. ART. 1149 - ASSAULT WITH MOTOR VEHICLE

A. Driver of motor vehicle or motorcycle

B. Colliding wilfully, or with negligence, causing--

C. Injury less than death

D. Punishment

1. \$25.00 to \$1,000.00
2. 1 month to 2 years, or both

E. If death occurs as result, driver dealt with under general laws of homicide.

Chapter Two - Continued

III. ART. 1150 - FAILURE TO STOP AND RENDER AID

A. When any motor vehicle strikes any person or another vehicle containing a person

B. Driver or persons in charge shall stop and:

1. Render assistance
2. Carry injured to medical treatment, if required or requested
3. Give number of vehicle
4. Name and address of owner
5. Names and addresses of passengers, not exceeding five in number, if requested

C. Punishment for violation

1. Not to exceed 5 years in penitentiary, or
2. Not to exceed 1 year in jail, or
3. Fine not to exceed \$5,000.00, or
4. Both fine and imprisonment

IV. ART. 1151 - ASSAULT WITH A PROHIBITED WEAPON

A. If any person shall commit an assault, or assault and battery, with:

1. Pistol, dirk, dagger, slingshot
2. Sword-cane, spear, or knuckles made of any hard substance or metal
3. Bowie knife, or knife made and sold for offense or defense

B. While weapon is carried unlawfully

C. Person guilty of assault with a prohibited weapon

D. Punishment

1. Fine not to exceed \$200.00, or
2. Jail not to exceed 2 years, or
3. Penitentiary for not more than 5 years.

CHAPTER THREE

HAZING AND OTHER VIOLENCE

- I. ART. 1152 - "HAZING" DEFINED
- II. ART. 1153 - TEACHER, ETC., ASSISTING IN HAZING
- III. ART. 1154 - STUDENT PUNISHED
- IV. ART. 1155 - TEACHER, ETC., PUNISHED
- V. ART. 1156 - CONSTRUCTION OF STATUTE
- VI. ART. 1157 - VIOLENCE TO INDUCE CONFESSION
 - A. Any PEACE OFFICER WITH PRISONER IN CUSTODY who shall:
 1. Torture, torment, or punish
 2. By any mental or physical pain
 3. For purpose of making prisoner confess
 - B. Shall be punished by:
 1. Fine of \$1.00 to \$1,000.00, or
 2. Jail not to exceed 1 year, or
 3. Both fine and imprisonment
 4. Jury may bar from ever holding office of trust in State.
- VII. ART. 1158 - WHIPPING INMATE OF TRAINING SCHOOL

CHAPTER FOUR

ASSAULTS WITH INTENT TO COMMIT SOME OTHER OFFENSES

- I. ART. 1159 - ASSAULT WITH INTENT TO MAIM, DISFIGURE OR CASTRATE
 - A. Assaulting another with intent to:
 1. Maim
 2. Disfigure
 3. Castrate
 - B. Punishment
 1. Fine not to exceed \$1,000, or
 2. Not less than 2 nor more than 5 years in the penitentiary
 3. Double penalty if in disguise.
- II. ART. 1160 - ASSAULT WITH INTENT TO MURDER
 - Punishment
 1. With malice--2 to 25 years
 2. Not to exceed 3 years if jury finds the assault was without malice
 3. Penalty doubled if:
 - a. With Bowie knife, dagger or other knife
 - b. In disguise
 - c. By laying in wait, or
 - d. Shooting into private residence
- III. ART. 1161 - BOWIE KNIFE AND DAGGER
 - A. Any knife intended to be worn upon the person
 - B. Any knife not known commonly as a pocket knife

Chapter Four - Continued

- IV. ART. 1162 - ASSAULT WITH INTENT TO RAPE
 - A. Assault of woman with intent to rape
 - B. Punishment
 - 1. Any term of years not less than 2 in penitentiary
- V. ART. 1163 - ASSAULT WITH INTENT TO ROB
 - A. Punishment
 - 1. 2 to 10 years in penitentiary
- VI. ART. 1164 - ASSAULT IN ATTEMPTING BURGLARY
 - A. Punishment
 - 1. 2 to 5 years in penitentiary
- VII. ART. 1165 - TEST OF ASSAULT TO COMMIT OFFENSE
 - A. Constituted by assault
 - B. Coupled with intent to commit offense, such as:
 - 1. Maiming
 - 2. Murder
 - 3. Rape or robbery.

CHAPTER FIVE

MAIMING, DISFIGURING AND CASTRATION

- I. ART. 1166 - MAIMING
 - A. Wilfully and maliciously cutting off or depriving another of:
 - 1. Hand, arm, finger, toe, foot, leg, nose or ear
 - 2. Putting out eye, or
 - 3. In any way depriving another of any member of his body.
 - B. Punishment--
 - 2 to 10 years in penitentiary
- II. ART. 1167 - DISFIGURING
 - A. Wilfully and maliciously marking:
 - 1. Face or other part of the person of another
 - 2. With knife or other instrument
 - B. Punishment
 - 1. 2 to 5 years in penitentiary, or
 - 2. Fine not exceeding \$2,000.00
- III. ART. 1167a - TATTOOING
 - A. Marking skin with indelible patterns or pictures
 - 1. By making punctures, and
 - 2. Inserting pigments
 - 3. On person under 21 years of age
 - B. Punishment
 - 1. \$10.00 to \$200.00, or
 - 2. Jail not to exceed 6 months, or
 - 3. Both fine and imprisonment

Chapter Five - Continued

IV. ART. 1168 - CASTRATION

A. Wilfully and maliciously depriving another of:

1. Either or both, or
2. Any part of either or both testicles.

B. Punishment

1. 5 to 15 years in penitentiary

CHAPTER SIX

FALSE IMPRISONMENT

I. ART. 1169 - FALSE IMPRISONMENT

A. The willful detention of another

1. Against his consent
2. Where not expressly authorized by law

B. May be effected by:

1. Assault
2. Violence to the person
3. Threats, or
4. Any other means which restrain.

II. ART. 1170 - ASSAULT OR VIOLENCE NECESSARY

A. Same as in definition of Assault and Battery

III. ART. 1171 - WHAT IMPEDIMENT NECESSARY

A. Such as is in its nature calculated to detain

B. From which one cannot, by ordinary means, relieve himself.

IV. ART. 1172 - CHARACTER OF THREAT NECESSARY

A. Such as would inspire fear of injury

1. To himself or another's person
2. Reputation or property

B. The following must be considered to determine if threat was sufficient:

1. Age
2. Sex
3. Condition
4. Disposition or health of person threatened.

Chapter Six - Continued

- V. ART. 1173 - LAWFUL DETENTION
 - A. No offense to detain for lawful purpose
- VI. ART. 1174 - PENALTY FOR FALSE IMPRISONMENT
 - A. Fine not exceeding \$500, or
 - B. Not to exceed 1 year in jail
- VII. ART. 1175 - DETENTION AFTER DISCHARGE ON HABEAS CORPUS
 - A. Officer or another detaining in any manner
 - 1. After release ordered by any court or judge
 - 2. On writ of habeas corpus
 - B. Punishment
 - 1. Fine not exceeding \$2000, or
 - 2. Jail not exceeding 2 years
- VIII. ART. 1176 - REFUSAL TO ALLOW CONSULTATION WITH COUNSEL
 - A. Willfully preventing prisoner from:
 - 1. Consulting or communicating, or
 - 2. Obtaining advice or service of counsel
 - a. In protection or prosecution of legal rights
 - B. Punishment
 - 1. 60 days to 6 months in jail, and
 - 2. Fine not exceeding \$1000
- IX. ART. 1176a - AID AND COMPENSATION TO PERSONS WRONGFULLY IMPRISONED

CHAPTER SEVEN

KIDNAPPING AND ABDUCTION

- I. ART. 1177 - KIDNAPPING
 - A. False Imprisonment
 - 1. For purpose of being removed from State, or
 - 2. Concealed or taken from lawful possession of parent or guardian if under 17 years of age
 - B. If under 15 years of age
 - 1. Want of consent nor
 - 2. Force is necessary
 - C. Punishment
 - 1. Penitentiary--5 to 25 years, or
 - 2. Fine not exceeding \$2000
- II. ART. 1177a - KIDNAPPING FOR EXTORTION
 - A. Every person who forcibly:
 - 1. Detains, takes, confines, conceals, or
 - 2. Fraudulently entices another
 - 3. For purpose of, and intent to:
 - a. Take, demand, receive or extort
 - (1) Any money or valuable thing
 - (2) From person taken, his relatives or any other person, or
 - B. Who by force, threats, fraud, duress or enticement
 - 1. Takes, confines, kidnaps, conceals or entices away another
 - 2. For like purpose or intent
 - C. Punishment
 - 1. Death
 - 2. Any term of years not less than five (5)

Chapter Seven (Kidnapping for Extortion) - Cont'd.

D. Venue

1. Venue lies in any county where:
 - a. Offense originated
 - b. Person held, or
 - c. Through which person was taken
2. Whether offense originated within or without the State.

III. ART. 1178 - IF ONE KIDNAPPED BE ACTUALLY REMOVED

- A. If falsely imprisoned person be removed from State
- B. Punishment
 1. 2 to 10 years in penitentiary

IV. ART. 1179 - ABDUCTION

- A. False imprisonment of woman with intent:
 1. To force into marriage, or
 2. For purpose of prostitution

V. ART. 1180 - OF FEMALE UNDER FOURTEEN

- A. If girl under 14 be taken from
 1. Parent, guardian or other person having legal charge of her
- B. For purpose of:
 1. Marriage
 2. Prostitution
- C. It is abduction, with or without her consent, and even if they marry.

Chapter Seven - Continued

VI. ART. 1181 - ABDUCTION COMPLETE

- A. If female detained as long as 12 hours
- B. Even though relieved from such detention
- C. Without marriage or prostitution

VII. ART. 1182 - PUNISHMENT FOR ABDUCTION

- A. Fine not exceeding \$2000
- B. If forced into marriage
 1. 2 to 5 years in penitentiary
- C. If prostituted
 1. 3 to 20 years

CHAPTER EIGHT

RAPE

- I. ART. 1183 - RAPE
 - A. The carnal knowledge of a woman by
 - 1. Force, threats or fraud, or
 - B. Carnal knowledge of a woman other than wife of the person
 - 1. Such woman known to be mentally diseased
 - 2. With no will to oppose
 - 3. With or without consent
 - 4. With or without force, threat or fraud
 - C. Carnal knowledge of a woman other than the wife of the person
 - 1. Under 18 years of age
 - 2. With or without consent
 - 3. With or without force, threats or fraud
 - 4. If 15 or over in consent cases
 - a. Previous unchaste character is a defense
- II. ART. 1184 - FORCE
 - A. Same application as in Assault and Battery
 - B. Force that is reasonably supposed to overcome resistance
 - 1. Considering
 - a. Relative strength of parties
 - b. Circumstances of the case

Chapter Eight - Continued

III. ART. 1185 - THREAT

- A. Such as might reasonably create a just fear
 - 1. Of death or great bodily harm
- B. Considering
 - 1. Health
 - 2. Strength
 - 3. Other circumstances of the case

IV. ART. 1186 - FRAUD

- A. Woman induced to believe man is husband
- B. Administration of drug which
 - 1. Produces unnatural sexual desire
 - 2. Produces stupor or weakens resistance
 - 3. Such drug administered without her knowledge or consent
- C. Presumption of law: no consent given under these circumstances.

V. ART. 1187 - PROOF OF CARNAL KNOWLEDGE

- A. Penetration, only, is necessary to constitute rape
- B. Not necessary hymen be ruptured-- Watkins vs State
- C. Penetration of vulva or labia is sufficient-- Mirich vs State

VI. ART. 1188 - DEFENDANT MUST BE OVER FOURTEEN

- A. Cannot be convicted of:
 - 1. Rape
 - 2. Assault with intent to rape
 - a. If under the age of 14 at time of offense.

Chapter Eight - Continued

VII. ART. 1189 - PENALTY

- A. Death
- B. Life in penitentiary
- C. Any term of years not less than five (5)

VIII. ART. 1190 - ATTEMPT TO RAPE

- A. If rape not committed, but was attempted
 - 1. By force, threats or fraud
 - 2. But not such as to make it assault with intent to commit rape
- B. Jury may find defendant guilty of attempted rape
- C. Punishment may be assessed by jury
 - 1. Not less than 2 years in penitentiary

CHAPTER NINE

ABORTION

I. ART. 1191 - ABORTION

- A. Any person who designedly
 - 1. Administers, or
 - 2. Knowingly procures to be administered
 - 3. Uses any violence or means whatever, externally or internally applied
 - a. To a pregnant woman
 - b. And, thereby procures an abortion.
- B. Punishment
 - 1. 2 to 5 years in penitentiary
 - 2. If without her consent, punishment shall be doubled.
- C. Abortion is destruction of the life of the fetus or embryo in the mother's womb, or causing a premature birth thereof.

II. ART. 1192 - FURNISHING THE MEANS

- A. Whoever furnishes means for procuring an abortion
- B. Knowing the purpose intended
- C. Is guilty as an accomplice.

III. ART. 1193 - ATTEMPT AT ABORTION

- A. If means used fail to produce abortion
- B. Offender is guilty of attempted abortion
- C. Provided means used were calculated to produce that result
- D. Punishment
 - 1. Fine of not less than \$100 nor more than \$1000.

Chapter Nine - Continued

IV. ART. 1194 - MURDER IN PRODUCING ABORTION

A. If death of mother results from:

1. Abortion
2. Attempted abortion

B. It is murder.

V. ART. 1195 - DESTROYING UNBORN CHILD

A. Destroying life of child in process of being born before actual birth

B. If, otherwise, such child would have been born alive

C. Punishment

1. Life in penitentiary, or
2. Not less than 5 years in penitentiary.

VI. ART. 1196 - BY MEDICAL ADVICE

A. Law does not apply if done by medical advice

B. For purpose of saving mother's life.

CHAPTER TEN

ADMINISTERING POISONOUS AND INJURIOUS POTIONS

I. ART. 1197 - POISONING FOOD, WELL, ETC.

A. Whosoever shall mix

1. Any noxious potion or substance
2. With any food, drink or medicine

B. With intent to kill or injure another, or

C. Willfully poison or cause to be poisoned any

1. Spring, well, cistern or reservoir of water
2. With such intent

D. Punishment

1. 2 to 10 years in penitentiary.

II. ART. 1198 - ADMINISTERING INJURIOUS SUBSTANCES

A. Whosoever, with intent to injure, causes another

1. To inhale or swallow
2. Anything injurious to health or bodily function, or
3. With intent to kill

B. Punishment

1. 2 to 5 years in penitentiary.

III. ART. 1199 - DEATH WITHIN A YEAR--MURDER

A. Death resulting from two preceding articles is murder

B. If death occurs in one year.

IV. ART. 1200 - MALPRACTICE PUNISHABLE

- A. Any person who practices medicine or claims to be a physician who shall
 - 1. Use any noxious substance and
 - 2. Produce death or great bodily injury
- B. Punishment
 - 1. As any other person who gives such substance
 - 2. Knowing it to be injurious and
 - 3. Intending to kill or injure.

HOMICIDE

I. ART. 1201 - HOMICIDE

- A. The destruction of a person by
 - 1. The act
 - 2. Agency
 - 3. Procurement, or
 - 4. Culpable omission of another.

II. ART. 1202 - DESTRUCTION OF LIFE MUST BE COMPLETE

- A. Destruction of life must be completed by such act, agency, procurement or omission
- B. If injury is cause of death, though under other circumstances it might not have been fatal, and
 - 1. There is no gross neglect or
 - 2. Manifestly improper treatment
- C. It is homicide.

III. ART. 1203 - FOREGOING ARTICLE REFERS TO ACTS OF OTHERS

- A. Gross neglect and improper treatment refers to
 - 1. Person other than one who inflicts injury
 - 2. Physician or any attendant
- B. If person inflicting injury willfully fails or neglects to call necessary aid
- C. He shall be deemed guilty as if injury were one which would inevitably lead to death.

Chapter Eleven - Continued

- IV. ART. 1204 - BODY OF DECEASED MUST BE FOUND
 - A. Body of deceased, or
 - B. Portions sufficient to establish fact of death
 - C. Must be found to convict one of any grade of homicide.
- V. ART. 1205 - PERSON KILLED MUST BE IN EXISTENCE
- VI. ART. 1206 - HOMICIDE PRODUCED BY WORDS, ETC.
 - A. Words which are calculated to produce, and do produce, an act which is the immediate cause of death.
 - B. Such as:
 - 1. Blind person, stranger, child or person of unsound mind
 - a. Directed to a cliff or other dangerous place and falls and is killed.
 - 2. Person directed to take medicine, food or drink known to be poisonous which kills him.
 - 3. These, and similar cases, operating on the mind or conduct of the person injured.

CHAPTER TWELVE

JUSTIFIABLE HOMICIDE

- I. ART. 1207 - WHEN JUSTIFIABLE
 - A. Homicide is justifiable in the cases enumerated in the succeeding articles of this chapter.
- II. ART. 1208 - KILLING A PUBLIC ENEMY
 - A. Lawful to kill public enemy
 - 1. Not only in prosecution of war
 - 2. But when in act of hostile invasion or occupation of any part of the State.
 - B. Public enemy defined:
 - 1. Person acting under authority or enlisted in service of any government
 - a. At war with this State, or
 - b. The United States.
 - C. Killing of public enemy not justifiable under following conditions:
 - 1. With use of poison or poisonous weapons
 - 2. When a deserter
 - 3. When prisoner of war
 - 4. When bearing a flag of truce.
- III. ART. 1209 - EXECUTION OF A CONVICT
 - A. Execution of convict justifiable under following conditions:
 - 1. By legally qualified officer
 - 2. Under warrant of court of competent jurisdiction
 - 3. When done in manner authorized by law and directed by warrant.

Chapter Twelve - Continued

IV. ART. 1210 - BY OFFICER IN EXECUTION OF LAWFUL ORDER

A. Homicide is justifiable by officer in execution of lawful orders of magistrate and court under following conditions:

1. When violently resisted, and
2. Has just grounds to fear danger to his own life in executing the order.

V. ART. 1211 - EVEN THOUGH ORDER IS ERRONEOUS

- A. If order emanated from proper authority
- B. Though an error of judgment on part of the magistrate or court
- C. Officer is justifiable in committing homicide.

VI. ART. 1212 - QUALIFICATION OF THE FOREGOING

A. Rule set forth in two preceding articles is subject to the following restrictions:

1. Order must be that of magistrate or court with authority to issue it.
2. It must have such form as the law requires to give it validity.
3. Officer must be duly authorized or some person specially appointed in accordance with law.
4. Officer must have taken oath of office and given bond where required by law.
5. Order must be executed in manner directed by law--
 - a. Person executing must make known his purpose
 - b. And, capacity in which he acts.
6. If order is written, and person against whom it issues--before resistance offered--wishes to see it or hear it read, the person executing it shall produce the order, show it or read it.

Chapter Twelve - Continued (Art. 1212)

7. If written order--in all cases, make known offense person accused of, and state nature of warrant unless prevented by act of accused.
8. Use such force as is necessary to prevent escape if attempted, but no deadly force unless officer's life is endangered or threatened with great bodily injury.
9. If resisted, use only force necessary to overcome force, but no deadly force unless just grounds to fear loss of life or great bodily injury.
10. A prisoner sentenced to death or to the penitentiary may be killed in order to prevent his escape, if escape cannot be prevented any other way.

VII. ART. 1213 - ORDER MAY BE WRITTEN OR VERBAL

A. Verbal order is lawful for arrest of a person.

VIII. ART. 1214 - WRITTEN ORDER

- A. Includes all process--criminal or civil
- B. Which directs seizure of person or property.

IX. ART. 1215 - VERBAL ORDER JUSTIFIES ONLY IN FELONY

- A. When verbally ordered to make an arrest
- B. Killing only justified
 1. In case of felonies
 2. For prevention of felonies.

X. ART. 1216 - PERSON AIDING OFFICER JUSTIFIED

- A. Persons called in aid of an officer
- B. In performance of his duty
- C. Justified in same manner as officer

Chapter Twelve - Continued

XI. ART. 1217 - PERSONS AIDING ESCAPE

- A. All persons opposing the execution of the order, or
- B. Aiding in an escape
- C. Treated as person against whom order directed, or
- D. Who is attempting to escape.

XII. ART. 1218 - FEDERAL OFFICERS INCLUDED

- A. Officers acting under authority of laws or courts of United States
 - 1. Same rights and
 - 2. Liable to the rules of this chapter.

XIII. ART. 1219 - IN SUPPRESSING RIOTS

- A. Homicide is justifiable
 - 1. When necessary to suppress a riot
 - 2. When attempted to be suppressed as pointed out by the Code of Criminal Procedure
 - 3. Can, in no way, be suppressed except by taking life.

XIV. ART. 1220 - ADULTERY AS JUSTIFICATION

- A. Homicide is justifiable
 - 1. When committed by husband
 - 2. On one taken in act of adultery with the wife
- B. Provided killing takes place before parties to the act have separated
- C. Not justifiable if it appears to have been
 - 1. Any connivance in, or assent to, the adultery on the part of the husband.

Chapter Twelve - Continued

XV. ART. 1221 - IN DEFENSE OF PERSON OR PROPERTY

- A. Homicide is permitted in necessary defense of person or property
- B. Under circumstances and subject to rules herein set forth.

XVI. ART. 1222 - IN PREVENTING FELONIES, ETC.

- A. Homicide is justifiable for purpose of preventing

- 1. Murder
- 2. Rape
- 3. Robbery
- 4. Maiming
- 5. Disfiguring
- 6. Castration
- 7. Arson
- 8. Burglary
- 9. Theft at night

- B. When inflicted on person or persons

- 1. Armed with deadly weapons
 - a. In disguise
 - b. At night-time
 - c. On premises not his or their own

- C. Homicide may be committed by

- 1. Person about to be injured, or
- 2. Another in his behalf

- D. Homicide must take place under following circumstances:

- 1. Reasonably must appear, by acts and words, that person killed intended to commit one of above offenses
- 2. During commission of offense, or after some act, showing he intended to commit such offense
- 3. Before offense completed, except rape, where rapist may be killed before he escapes from presence of the ravished

Chapter Twelve - Continued (Art. 1222)

4. In case of preventing murder--where offender is still inflicting violence, though mortal wound may have been given
5. In preventing robbery--while robber is in presence of one robbed or fleeing with the property taken
6. In cases of maiming, disfiguring or castration--while offender is mistreating victim with violence though he may have completed the offense
7. In case of arson--while offender is in, or at, building or property burned, or fleeing from the place before the destruction of same
8. In cases of burglary or theft at night--while offender is in the building or at place where theft committed, or within gunshot range of such place or building
9. Where party slain--in disguise--is engaged in any attempt by word, gesture or otherwise to alarm some other person or persons and put them in bodily fear.

XVII. ART. 1223 - PRESUMPTION FROM WEAPON OF DECEASED

A. When homicide takes place to prevent:

1. Murder
2. Maiming
3. Disfiguring
4. Castration

B. If weapons used would produce that result

C. It is presumed that person so using them designed to inflict the injury.

XVIII. ART. 1224 - DEFENSE AGAINST MILDER ATTACK

- A. Homicide is justifiable in protection of person or property against other unlawful and violent attack other than those mentioned.

Chapter Twelve - Continued (Art. 1224)

B. In such cases--

1. All other means must be used to prevent the injury
2. Killing must take place while person is in the very act
3. Person interfering on behalf of another is not justified in killing the aggressor
 - a. Unless victim's life is in peril by reason of attack on his property.

XIX. ART. 1225 - RETREAT NOT NECESSARY

- A. Party whose person or property unlawfully attacked not required to retreat to avoid necessity of killing his assailant.

XX. ART. 1226 - REQUISITES OF THE ATTACK

A. To justify killing, attack must produce

1. Reasonable expectation or fear of death, or
2. Some serious bodily injury.

XXI. ART. 1227 - DEFENSE OF PROPERTY

- A. Homicide committed in protection of property under Article 1224 must be done under following circumstances:

1. Possession must be corporeal property
2. Possession must be legal
3. If possession lost, it is not lawful to regain it by means which result in homicide.
4. Every other effort must be made to repel the aggression.

CHAPTER THIRTEEN
EXCUSABLE HOMICIDE

- I. ART. 1228 - EXCUSABLE HOMICIDE
 - A. When death of human being happens
 - 1. By accident or misfortune
 - B. Though caused by another who is in the prosecution
 - 1. Of a lawful object
 - 2. By lawful means

- II. ART. 1229 - MUST BE DONE BY LAWFUL MEANS
 - A. The lawful act causing death by lawful means and used in a lawful degree
 - B. Lawful chastisement:
 - 1. Parent - Child
 - 2. Guardian - Ward
 - 3. Schoolmaster - Scholar
 - 4. Master - Apprentice
 - C. Murder--if death results from chastisement where
 - 1. An instrument is used which is likely to produce death
 - 2. Cruel chastisement is inflicted with a proper instrument.

CHAPTER FOURTEEN
HOMICIDE BY NEGLIGENCE

- I. ART. 1230 - TWO KINDS
 - A. Homicide by negligence is of two kinds:
 - 1. Such as happens in the performance of a lawful act, and
 - 2. That which occurs in the performance of an unlawful act.

- FIRST, IN THE PERFORMANCE OF A LAWFUL ACT

- II. ART. 1231 - IN FIRST DEGREE
 - A. Causing death of another by carelessness or negligence
 - B. Lawful act defined:
 - 1. One not forbidden by penal law, and
 - 2. Would give no just occasion for a civil action

- III. ART. 1232 - MUST BE APPARENT DANGER OF CAUSING DEATH
 - A. Must be apparent danger of causing death to person killed--or some other

- IV. ART. 1233 - HOW DISTINGUISHED FROM EXCUSABLE HOMICIDE
 - A. Want of care and caution
 - B. Degree of care and caution is that which a man of ordinary prudence would use under like circumstances.

V. ART. 1234 - EXAMPLES

A. Examples of negligent homicide in first degree:

1. Throwing timbers from roof where a number of persons are known to be around the house
2. Discharging firearms near a public highway in such a manner that would be injurious to passing persons
3. If death results therefrom.

B. If death results from careless discharge of firearms

1. In public street of town or city
2. Offense is of higher degree.

VI. ART. 1235 - NO APPARENT INTENTION TO KILL

A. There must be no apparent intention to kill in either first or second degree negligent homicide.

B. If so, it is a different offense.

VII. ART. 1236 - MUST BE CONSEQUENCE OF THE ACT

A. The homicide must be the consequence

1. Of the act done, or
2. Attempted to be done.

VIII. ART. 1237 - PUNISHMENT

A. Confinement in jail not exceeding one (1) year, or

B. Fine not exceeding \$1000.

SECOND, IN THE PERFORMANCE OF AN UNLAWFUL ACT

IX. ART. 1238 - PREVIOUS RULES APPLY TO SECOND DEGREE

A. Same rules apply to both degrees of negligent homicide

B. Except when contrary to the following provisions:

X. ART. 1239 - ONLY COMMITTED WHEN

A. Negligent homicide in second degree can be committed only when--

1. Person guilty thereof is in act of committing, or
2. Attempting to commit
3. An unlawful act.

XI. ART. 1240 - UNLAWFUL ACT

A. Definition

1. Misdemeanors
2. Act that would give just occasion for civil action

XII. ART. 1241 - IF INTENT IS TO COMMIT A FELONY

A. Homicide is not justifiable if done in execution of or attempt to commit a felony

B. Even if no apparent intention to kill.

XIII. ART. 1242 - IN ATTEMPT AT MISDEMEANOR

A. Punishment if in attempt or commission of misdemeanor

1. Jail not exceeding three (3) years, or
2. Fine not exceeding \$3,000.

Chapter Fourteen - Continued

XIV. ART. 1243 - PUNISHMENT

- A. If act intended is not against penal laws
- B. But one for which an action would lie
- C. Punishment
 - 1. Fine not exceeding \$1,000 and
 - 2. Jail not exceeding one (1) year.

CHAPTER FIFTEEN

MANSLAUGHTER

ARTICLES 1244--1255

NOTE: This entire chapter on manslaughter was repealed by the 40th Legislature in 1927.

CHAPTER SIXTEEN

MURDER

I. ART. 1256 - MURDER

- A. The voluntary killing of another person
- B. Under the absence of circumstances which would reduce the offense to--
 - 1. Negligent homicide
 - 2. Excusable homicide, or
 - 3. Justifiable homicide

II. ART. 1257 - PUNISHMENT FOR MURDER

- A. Death
- B. Life in penitentiary
- C. Any term of years not less than two (2)

Chapter Sixteen - Continued

III. ART. 1257a - EVIDENCE

- A. During prosecution for felonious homicide
 - 1. Defendant may offer testimony to all relevant facts and circumstances
 - a. Surrounding the killing
 - b. Previous existing relationship between accused and deceased
 - c. Condition of mind of the accused at the time of the homicide
- B. This may be used by jury in determining punishment.

IV. ART. 1257b - INSTRUCTIONS

- A. Court shall define "malice aforethought" and instruct the jury
- B. Unless jury believes defendant acted with malice aforethought
 - 1. Maximum punishment--five (5) years

V. ART. 1257c - INSTRUCTIONS ON ISSUE OF MURDER WITHOUT MALICE

- A. Court shall instruct jury in all cases where facts show murder without malice
 - 1. That such is a voluntary homicide
 - 2. Committed without justification or excuse
 - 3. Under influence of a sudden passion
 - 4. Arising from an adequate cause
 - 5. By which is meant it would produce a degree of:
 - a. Anger
 - b. Rage
 - c. Resentment, or
 - d. Terror in a person of ordinary temperament sufficient to render the mind incapable of cool reflection
 - 6. To apply the law to the facts as produced by the evidence.

Chapter Sixteen - Continued

VI. ART. 1258 - THREATS AND CHARACTER OF DECEASED

- A. Where defendant accused of murder seeks to justify himself on grounds of threats made against his own life
 - 1. Evidence of threats may be introduced
 - 2. Not justifiable unless shown
 - a. Person killed intended to carry out threat at the time of the homicide
- B. Where proof of threats have been made
 - 1. Evidence of general character of deceased is competent
 - 2. Such evidence shall extend only to an inquiry as to whether the deceased was a man of--
 - a. Violent or dangerous character
 - b. Kind or inoffensive disposition, or
 - c. Such a person as might be expected to execute a threat made.

CHAPTER SEVENTEEN

DUELING

- I. ART. 1259 - DUELING
 - A. Any person who fights a duel with deadly weapons
 - B. Sends or accepts a challenge to fight such a duel
 - 1. Either within this State or out of it
 - C. Acts as a second
 - D. Or aids or assists in any manner those thus offended
 - E. Punishment
 - 1. Not less than two (2) nor more than five (5) years
- II. ART. 1260 - HOMICIDE COMMITTED IN A DUEL
 - A. If either combatant be killed or
 - B. Dies from wound received in duel within three months
 - C. Survivor guilty of murder.

CHAPTER SEVENTEEN A

MOBS AND LYNCHING

- I. ART. 1260a - OFFENSES AND PUNISHMENT
 - SECTION 1 - LYNCHING IN THE FIRST DEGREE
 - A. Mob defined:
 - 1. Collection of persons assembled without authority
 - a. For purpose and with intent
 - b. To commit an assault and battery on any person
 - 2. Or who shall form the intent
 - a. To commit an assault and battery
 - b. After assembling
 - B. First degree lynching defined:
 - 1. Any act of violence by a mob
 - a. On the person of another
 - b. Resulting in death of such person
 - C. Each and every person constituting such mob, and each and every accessory thereto, is guilty of lynching in first degree.
 - D. Punishment
 - 1. Death
 - 2. Life or any term of years not less than five (5).

Chapter Seventeen A - Continued

SECTION 2 - LYNCHING IN SECOND DEGREE

- A. Any act of violence on another by a mob
- B. Resulting in injury less than death
- C. Is lynching in second degree
- D. Any and every person composing a mob which shall:
 - 1. Commit an Assault and Battery
 - 2. Unlawfully shoot
 - 3. Stab
 - 4. Cut
 - 5. Maim or wound any person
 - 6. By any means cause bodily injury with intent to
 - a. Injure
 - b. Maim
 - c. Stab
 - d. Disfigure, or
 - e. Kill
 - 7. If such assault shall not result in death of person assaulted
 - 8. Shall be guilty of lynching in second degree
- E. Punishment
 - 1. One to ten (10) years in penitentiary

SECTION 3 - DISTRICT ATTORNEY'S DUTIES; ASSISTANCE

- A. Promptly and diligently endeavor to learn identity of each member of the mob
- B. Have them arrested
- C. Promptly proceed with prosecution
- D. Let none escape punishment

Chapter Seventeen A - Continued (Section 3)

- E. Assisted by--
 - 1. Attorney General
 - 2. Other prosecutors designated by Governor

SECTION 4 - CIVIL LIABILITY

- A. All members of mob civilly liable to victim or his personal representative.

SECTION 5 - ACT CUMULATIVE

- A. This act shall not repeal any laws relating to:
 - 1. Offenses against the person
 - 2. Unlawful assemblies
 - 3. Rioting
- B. Provisions to this act shall be cumulative to the above statutes.

CHAPTER EIGHTEEN

GENERAL PROVISIONS RELATING TO HOMICIDE

ARTICLES 1261 - 1264

NOTE: This entire chapter was repealed by the 40th Legislature in 1927.

CHAPTER NINETEEN

THREATS

- I. ART. 1265 - SERIOUSLY THREATENING LIFE
 - A. Seriously threatening another's life
 - B. Threatening serious bodily injury
 - C. Punishment
 - 1. Fine--\$100 to \$2,000
 - 2. Jail not exceeding one year, or both
- II. ART. 1266 - THREAT MUST BE MADE--SERIOUSLY
 - A. To constitute the offense, it is necessary that serious threat be made.
 - B. Jury determines:
 - 1. If seriously made
 - 2. If a mere idle threat, with no intention of executing same.
- III. ART. 1267 - CERTAIN THREATS NOT INCLUDED
 - A. Threat to do any act
 - 1. Merely to protect self
 - 2. To prevent some unlawful act by another
 - 3. Does not come within meaning of this chapter.
- IV. ART. 1268 - THREATENING LETTER
 - A. Whoever shall send or deliver to another any threatening letter, whether signed or not
 - 1. Threatening to accuse such other person of a crime

Chapter Nineteen - Continued (Art. 1268)

- 2. With purpose of extorting
 - a. Money
 - b. Property
 - c. Thing of value
 - d. Or, any advantage whatever
- 3. Or threatening to kill or in any manner injure such other person
- 4. Or threatening to burn, destroy or injure any of his property
 - a. Real or otherwise
- 5. Or do any other injury to such person
- B. Punishment
 - 1. \$100 to \$1,000 fine
 - 2. Jail not to exceed one (1) year, or both.