

AN ACT

relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. This Act may be cited as the Kevin Kolbye Act.

SECTION 2. Section 124.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 124.001. SUSPECTED THEFT OF PROPERTY OR ATTEMPTED THEFT OF PROPERTY [~~DETENTION~~]. (a) A person who reasonably believes that another has stolen or is attempting to steal property is privileged to detain that person in a reasonable manner and for a reasonable time to investigate ownership of the property.

(b) A person who is in the business of selling goods or services as a merchant is not precluded from offering a person who is suspected of stealing or attempting to steal property from the merchant an opportunity to complete a theft education program under Section 124.002 to deter theft and address criminal behavior instead of reporting the suspected offense to a law enforcement agency.

(c) A merchant who offers a person an opportunity to complete a theft education program shall:

- (1) notify the person of that opportunity;
- (2) inform the person of the civil and criminal remedies available to the merchant and the state, including

1 informing the person that the merchant retains the right to report  
2 the suspected offense to a law enforcement agency if the person does  
3 not successfully complete the program; and

4 (3) maintain records for a period of not less than two  
5 years of:

6 (A) any criteria used by the merchant in  
7 determining whether to offer a person the opportunity to complete a  
8 theft education program;

9 (B) the terms of each offer made; and

10 (C) the name of each person to whom the merchant  
11 made an offer.

12 (d) A merchant shall make records maintained under  
13 Subsection (c)(3) available to a district attorney, criminal  
14 district attorney, or county attorney on request.

15 (e) Nothing in this section precludes a peace officer,  
16 district attorney, criminal district attorney, county attorney, or  
17 judge from offering a person a theft education program under  
18 Section 124.002 in compliance with this chapter.

19 SECTION 3. Chapter 124, Civil Practice and Remedies Code,  
20 is amended by adding Sections 124.002 and 124.003 to read as  
21 follows:

22 Sec. 124.002. THEFT EDUCATION PROGRAM. (a) A theft  
23 education program for a person who is suspected of stealing or  
24 attempting to steal property under Section 124.001 must:

25 (1) address the type of alleged criminal offense;

26 (2) seek to modify the person's behavioral  
27 decision-making process;

1           (3) engage the person with interactive exercises  
2 designed to instill appropriate societal behavior; and

3           (4) promote accountability and reconciliation between  
4 the person and the merchant.

5           (b) A provider of a theft education program may not  
6 discriminate against a person who is otherwise eligible to  
7 participate in the program based on:

8           (1) the person's race, color, religion, sex, familial  
9 status, or national origin; or

10           (2) the person's ability to pay.

11           (c) A program provider that charges a fee for participation  
12 in a theft education program:

13           (1) shall develop a plan to offer discounts,  
14 alternative payment schedules, or scholarship funds to a person who  
15 the provider has verified is indigent;

16           (2) may reduce or waive the fee for the program based  
17 on the ability to pay of a person described by Subdivision (1); and

18           (3) may not compensate a merchant who offers a person  
19 the opportunity to complete the program.

20           (d) A person may not be required to make an admission of  
21 guilt to participate in a theft education program.

22           (e) Notwithstanding any other law, a person who  
23 successfully completes a theft education program under this section  
24 may not be subject to any additional civil penalties under any other  
25 provision of law.

26           Sec. 124.003. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY.

27 A person who offers or provides a theft education program in

1 compliance with this chapter is not criminally or civilly liable  
2 for failure to notify a law enforcement agency of the suspected  
3 theft or attempted theft.

4 SECTION 4. This Act takes effect September 1, 2023.

---

President of the Senate

---

Speaker of the House

I certify that H.B. No. 2129 was passed by the House on May 6, 2023, by the following vote: Yeas 102, Nays 32, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2129 on May 26, 2023, by the following vote: Yeas 117, Nays 23, 1 present, not voting.

---

Chief Clerk of the House

I certify that H.B. No. 2129 was passed by the Senate, with amendments, on May 24, 2023, by the following vote: Yeas 28, Nays 3.

---

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

---

Governor