

By: Frost

H.B. No. 2257

A BILL TO BE ENTITLED

AN ACT

relating to the misuse of certain government documents and related instruments and to the prosecution of certain offenses involving that conduct.

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

SECTION 1. Articles 12.01 and 12.02, Code of Criminal Procedure, are amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Article 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault, if during the investigation of the offense biological matter is collected and subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained; or

(C) an offense involving leaving the scene of an accident under Section 550.021, Transportation Code, if the accident resulted in the death of a person;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to

defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which he exercises control in his official capacity;

(C) forgery or the uttering, using or passing of forged instruments;

(D) injury to a child, elderly individual, or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (5); or

(F) arson;

(3) seven years from the date of the commission of the offense:

(A) misapplication of fiduciary property or property of a financial institution;

(B) securing execution of document by deception; or

(C) a violation under Sections 162.403(22)-(39), Tax Code;

(4) five years from the date of the commission of the offense:

(A) theft, burglary, robbery;

(B) kidnapping;

(C) injury to a child, elderly individual, or disabled individual that is not punishable as a felony of the first degree under Section 22.04, Penal Code;

(D) abandoning or endangering a child; ~~[or]~~

(E) insurance fraud;

(F) except as provided by Subdivision (2),  
tampering with a governmental record under Section 37.10, Penal  
Code;

(G) fraudulent use or possession of identifying  
information under Section 32.51, Penal Code; or

(H) possessing a forged or counterfeit  
instrument under Section 521.451(a)(6), Transportation Code;

(5) ten years from the 18th birthday of the victim of  
the offense:

(A) indecency with a child under Section  
21.11(a)(1) or (2), Penal Code; or

(B) except as provided by Subdivision (1), sexual  
assault under Section 22.011(a)(2), Penal Code, or aggravated  
sexual assault under Section 22.021(a)(1)(B), Penal Code; or

(6) three years from the date of the commission of the  
offense: all other felonies.

Art. 12.02. MISDEMEANORS. (a) Except as provided by  
Subsection (b), an ~~An~~ indictment or information for any  
misdemeanor may be presented within two years from the date of the  
commission of the offense, and not afterward.

(b) An indictment or information for an offense punishable  
as a misdemeanor under Section 37.10, Penal Code, or under Section  
521.451(a)(1), (2), (3), (4), or (5), Transportation Code, may be  
presented within five years from the date of the commission of the  
offense, and not afterward.

SECTION 2. Article 42.037, Code of Criminal Procedure, is amended by adding Subsection (r) to read as follows:

(r)(1) The court shall order a defendant convicted of an offense under Section 32.51, Penal Code, to make restitution to the victim of the offense in an amount equal to the sum of the victim's lost income and any expenses, including attorney's fees, incurred by the victim in correcting inaccuracies in the victim's credit history or credit report that resulted from the commission of the offense.

(2) The court shall, after considering the financial circumstances of the defendant, specify in a restitution order issued under Subsection (a) the manner in which the defendant must make the restitution.

SECTION 3. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the

1 defendant obtained the property by issuing or passing a check or  
2 similar sight order in a manner described by Section 31.06; or

3 (B) the value of the property stolen is less  
4 than:

5 (i) \$50 and the defendant has previously  
6 been convicted of any grade of theft; or

7 (ii) \$20, the defendant has previously been  
8 convicted of any grade of theft, and the defendant obtained the  
9 property by issuing or passing a check or similar sight order in a  
10 manner described by Section 31.06;

11 (3) a Class A misdemeanor if the value of the property  
12 stolen is \$500 or more but less than \$1,500;

13 (4) a state jail felony if:

14 (A) the value of the property stolen is \$1,500 or  
15 more but less than \$20,000, or the property is less than 10 head of  
16 cattle, horses, or exotic livestock or exotic fowl as defined by  
17 Section 142.001, Agriculture Code, or any part thereof under the  
18 value of \$20,000, or less than 100 head of sheep, swine, or goats or  
19 any part thereof under the value of \$20,000;

20 (B) regardless of value, the property is stolen  
21 from the person of another or from a human corpse or grave;

22 (C) the property stolen is a firearm, as defined  
23 by Section 46.01;

24 (D) the value of the property stolen is less than  
25 \$1,500 and the defendant has been previously convicted two or more  
26 times of any grade of theft; [~~or~~]

27 (E) the property stolen is an official ballot or

official carrier envelope for an election; or

(F) the property stolen is identifying information, as defined by Section 32.51, if the value of the property stolen is less than \$20,000 and it is shown on the trial of the offense that the defendant knew at the time of the commission of the offense that the property stolen was identifying information or that it contained identifying information;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 100 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION 4. Section 32.51(a)(1), Penal Code, is amended to read as follows:

(1) "Identifying information" means information that alone or in conjunction with other information identifies an individual, including an individual's:

(A) name, social security number, date of birth,

1 or ~~and~~ government-issued identification number;

2 (B) unique biometric data, including the  
3 individual's fingerprint, voice print, and retina or iris image;

4 (C) unique electronic identification number,  
5 address, ~~and~~ routing code, or financial institution account  
6 number; and

7 (D) telecommunication identifying information or  
8 access device.

9 SECTION 5. Sections 32.51(b) and (c), Penal Code, are  
10 amended to read as follows:

11 (b) A person commits an offense if the person, with the  
12 intent to harm or defraud another, obtains, possesses, transfers,  
13 or uses identifying information of:

14 (1) a deceased natural person, including a stillborn  
15 infant or fetus, without legal authorization; or

16 (2) another person without the other person's consent  
17 ~~[and with intent to harm or defraud another]~~.

18 (c) An offense under this section is a state jail felony,  
19 except that the offense is a felony of the third degree if it is  
20 shown on the trial of the offense that the defendant has been  
21 previously convicted under this section.

22 SECTION 6. Section 521.451, Transportation Code, is amended  
23 by amending Subsections (a) and (b) and adding Subsection (d) to  
24 read as follows:

25 (a) Except as provided by Section 521.452, a person may not:

26 (1) display, cause or permit to be displayed, or have  
27 in the person's possession a driver's license or certificate that

1 the person knows is fictitious or has been altered;

2 (2) lend the person's driver's license or certificate  
3 to another person or knowingly permit another person to use the  
4 person's driver's license or certificate;

5 (3) display or represent as the person's own a driver's  
6 license or certificate not issued to the person;

7 (4) possess more than one currently valid driver's  
8 license or more than one currently valid certificate; ~~[or]~~

9 (5) in an application for an original, renewal, or  
10 duplicate driver's license or certificate:

11 (A) provide a false name, false address, or a  
12 counterfeit document; or

13 (B) knowingly make a false statement, conceal a  
14 material fact, or otherwise commit fraud; or

15 (6) possess with the intent to sell, distribute, or  
16 deliver a forged or counterfeit instrument that is not printed,  
17 manufactured, or made by or under the direction of, or issued, sold,  
18 or circulated by or under the direction of, a person or entity  
19 authorized to do so under this chapter or under the laws of the  
20 United States, another state, or a Canadian province.

21 (b) An offense under this section is a Class A misdemeanor,  
22 except that an offense under Subsection (a)(6) is a felony of the  
23 third degree.

24 (d) For purposes of Subsection (a)(6), "instrument" means a  
25 driver's license, driver's license form, personal identification  
26 certificate, stamp, permit, license, official signature,  
27 certificate, or evidence of fee payment or any other instrument.

1           SECTION 7. The following laws are repealed:

2                   (1) Sections 521.455 and 521.456, Transportation  
3 Code; and

4                   (2) Section 32.51(d), Penal Code.

5           SECTION 8. (a) Except as provided by Subsection (b) of this  
6 section, the change in law made by this Act applies only to an  
7 offense committed on or after the effective date of this Act. An  
8 offense committed before the effective date of this Act is covered  
9 by the law in effect at the time the offense was committed, and the  
10 former law is continued in effect for that purpose. For purposes of  
11 this subsection, an offense was committed before the effective date  
12 of this Act if any element of the offense was committed before that  
13 date.

14           (b) The change in law made by Articles 12.01 and 12.02, Code  
15 of Criminal Procedure, as amended by this Act, does not apply to an  
16 offense if the prosecution of that offense became barred by  
17 limitation before the effective date of this Act. The prosecution  
18 of that offense remains barred as if this Act had not taken effect.

19           SECTION 9. This Act takes effect September 1, 2007.