

By: Hinojosa

S.B. No. 1530

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the misuse and counterfeiting of certain government
3 documents and related instruments for identity theft and other
4 purposes and to the prosecution of certain offenses involving that
5 conduct.

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

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

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

12 (1) no limitation:

13 (A) murder and manslaughter;

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

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

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

24 (A) theft of any estate, real, personal or mixed,

1 by an executor, administrator, guardian or trustee, with intent to
2 defraud any creditor, heir, legatee, ward, distributee,
3 beneficiary or settlor of a trust interested in such estate;

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

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

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

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

13 (F) arson;

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

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

18 (B) securing execution of document by deception;
19 or

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

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

24 (A) theft, burglary, robbery;

25 (B) kidnapping;

26 (C) injury to a child, elderly individual, or
27 disabled individual that is not punishable as a felony of the first

1 degree under Section 22.04, Penal Code;

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

3 (E) insurance fraud;

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

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

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

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

13 (A) indecency with a child under Section
14 21.11(a)(1) or (2), Penal Code; or

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

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

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

24 (b) An indictment or information for an offense punishable
25 as a misdemeanor under Section 37.10, Penal Code, or under Section
26 521.451(a)(1), (2), (3), (4), or (5), Transportation Code, may be
27 presented within five years from the date of the commission of the

1 offense, and not afterward.

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

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

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

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

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

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

21 (A) \$50; or

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

25 (2) a Class B misdemeanor if:

26 (A) the value of the property stolen is:

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

1 (ii) \$20 or more but less than \$500 and the
2 defendant obtained the property by issuing or passing a check or
3 similar sight order in a manner described by Section 31.06; or

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

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

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

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

14 (4) a state jail felony if:

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

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

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

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

1 (E) the property stolen is an official ballot or
2 official carrier envelope for an election; or

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

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

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

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

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

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

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

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

1 (A) name, social security number, date of birth,
2 and government-issued identification number;

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

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

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

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

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

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

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

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

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

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

27 (1) display, cause or permit to be displayed, or have

1 in the person's possession a driver's license or certificate that
2 the person knows is fictitious or has been altered;

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

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

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

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

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

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

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

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

25 (d) For purposes of Subsection (a)(6), "instrument" means a
26 driver's license, driver's license form, personal identification
27 certificate, stamp, permit, license, official signature,

1 certificate, evidence of fee payment, or any other instrument.

2 SECTION 7. The following laws are repealed:

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

5 (2) Subsection (d), Section 32.51, Penal Code.

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

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

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