

SENATE AMENDMENTS

2nd Printing

By: Darby, Fletcher, et al.

H.B. No. 671

A BILL TO BE ENTITLED

AN ACT

relating to the penalty for theft from a nonprofit organization.

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

SECTION 1. Section 31.03(f), Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; or

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization.

SECTION 2. Section 31.03(h), Penal Code, is amended by adding Subdivision (3) to read as follows:

(3) "Nonprofit organization" means an organization that is exempt from federal income taxation under Section 501(a),

1 Internal Revenue Code of 1986, by being described as an exempt
2 organization by Section 501(c)(3) of that code.

3 SECTION 3. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 covered by the law in effect when the offense was committed, and the
7 former law is continued in effect for that purpose. For purposes of
8 this section, an offense was committed before the effective date of
9 this Act if any element of the offense was committed before that
10 date.

11 SECTION 4. This Act takes effect September 1, 2009.

ADOPTED

MAY 27 2009

Atty. Gen.
Secretary of the Senate

By: *Belgian*

H.B. No. 621

Substitute the following for H.B. No. 621:

By: *Belgian*

C.S. H.B. No. 621

A BILL TO BE ENTITLED

AN ACT

relating to the penalty for theft from a nonprofit organization or by Medicare providers.

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

SECTION 1. Subsection (f), Section 31.03, Penal Code, is amended to read as follows:

(f) An offense described for purposes of punishment by Subsections (e)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the actor was a public servant at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of his status as a public servant;

(2) the actor was in a contractual relationship with government at the time of the offense and the property appropriated came into the actor's custody, possession, or control by virtue of the contractual relationship; ~~or~~

(3) the owner of the property appropriated was at the time of the offense:

(A) an elderly individual; or

(B) a nonprofit organization; or

(4) the actor was a Medicare provider in a contractual relationship with the federal government at the time of the offense and the property appropriated came into the actor's custody,

1 possession, or control by virtue of the contractual relationship.

2 SECTION 2. Section 31.03(h), Penal Code, is amended by adding
3 Subdivision (3) to read as follows:

4 (3) "Nonprofit organization" means an organization that
5 is exempt from federal income taxation under Section 501(a),
6 Internal Revenue Code of 1986, by being described as an exempt
7 organization by Section 501(c)(3) of that code.

8 SECTION 3. The change in law made by this Act applies only to
9 an offense committed on or after the effective date of this Act.
10 An offense committed before the effective date of this Act is
11 covered by the law in effect when the offense was committed, and
12 the former law is continued in effect for that purpose. For
13 purposes of this section, an offense was committed before the
14 effective date of this Act if any element of the offense was
15 committed before that date.

16 SECTION 4. This Act takes effect September 1, 2009.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 27, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization or by Medicare providers.), **As Passed 2nd House**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft from a nonprofit organization or certain theft by a Medicare provider.

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization or if the actor was a Medicare provider in a contractual relationship with the federal government and the property came into the actor's custody, possession, or control through that relationship. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

The bill would take effect on September 1, 2009 and apply to offenses committed on or after that date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. A check of Texas Department of Criminal Justice records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding theft from nonprofit organizations or certain theft by a Medicare provider; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

The impact to local government cannot be determined.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, SD, ESi, GG, TMP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization or by Medicare providers.), **Committee Report 2nd House, Substituted**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft from a nonprofit organization or certain theft by a Medicare provider.

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization or if the actor was a Medicare provider in a contractual relationship with the federal government and the property came into the actor's custody, possession, or control through that relationship. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

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Local Government Impact

The impact to local government cannot be determined.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG, TMP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization.), As
Engrossed

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft from a nonprofit organization.

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

The bill would take effect on September 1, 2009 and apply to offenses committed on or after that date.

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Local Government Impact

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Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 9, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization.), **As Introduced**

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft from a nonprofit organization.

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

The bill would take effect on September 1, 2009 and apply to offenses committed on or after that date.

Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. A check of Texas Department of Criminal Justice records, Department of Public Safety records, Office of Court Administration records, and Jail Standards Commission records did not reveal any information that would help in an accurate assumption regarding theft from nonprofit organizations; therefore, the probable impact of implementing the bill cannot be determined.

Local Government Impact

The impact to local government cannot be determined.

Source Agencies: 696 Department of Criminal Justice

LBB Staff: JOB, ESi, GG

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 22, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization or by Medicare providers.), **Committee Report 2nd House, Substituted**

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization or if the actor was a Medicare provider in a contractual relationship with the federal government and the property came into the actor's custody, possession, or control through that relationship. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A Class B Misdemeanor is punishable by confinement in a county jail for any term of not more than 180 days, or, in addition to confinement, a fine not to exceed \$2,000.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed \$4,000.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the first degree is punishable by imprisonment in the institutional division for any term of not more than 99 years or less than 5 years, or, in addition to confinement, a fine not to exceed \$10,000.

The bill increases the punishment of theft of property belonging to a nonprofit organization and certain theft by a Medicare provider to the next higher category. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. The additional impact to criminal justice populations from the bill would vary greatly depending on the number of times theft of a nonprofit occurred and the number of times theft was committed by a Medicare provider in a contractual relationship with the federal government and the property came into the actor's custody, possession, or control through that relationship.

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft of property

belonging to a nonprofit organization and certain theft by a Medicare provider.

Source Agencies:

LBB Staff: JOB, GG, TMP, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization.), **As Engrossed**

The bill would amend the Penal Code to increase the punishment of theft to the next higher category of offense if the property belongs to a nonprofit organization. Felonies of the first degree are excluded from the enhancement. Theft is currently punishable at all offense levels depending upon the type and value of property stolen.

A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A Class B Misdemeanor is punishable by confinement in a county jail for any term of not more than 180 days, or, in addition to confinement, a fine not to exceed \$2,000.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed \$4,000.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the first degree is punishable by imprisonment in the institutional division for any term of not more than 99 years or less than 5 years, or, in addition to confinement, a fine not to exceed \$10,000.

The bill increases the punishment of theft of property belonging to a nonprofit organization to the next higher category. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. The additional impact to criminal justice populations from the bill would vary greatly depending on the number of times theft of a nonprofit occurred.

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft of property belonging to a nonprofit organization.

Source Agencies:

LBB Staff: JOB, GG, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 9, 2009

TO: Honorable Pete Gallego, Chair, House Committee on Criminal Jurisprudence

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB671 by Darby (Relating to the penalty for theft from a nonprofit organization.), **As Introduced**

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A Class C Misdemeanor is punishable by a fine not to exceed \$500.

A Class B Misdemeanor is punishable by confinement in a county jail for any term of not more than 180 days, or, in addition to confinement, a fine not to exceed \$2,000.

A Class A Misdemeanor is punishable by confinement in a county jail for any term of not more than one year, or, in addition to confinement, a fine not to exceed \$4,000.

A state jail felony is punishable by confinement in a state jail for any term of not more than two years or less than 180 days, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the third degree is punishable by imprisonment in the institutional division for any term of not more than 10 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the second degree is punishable by imprisonment in the institutional division for any term of not more than 20 years or less than 2 years, or, in addition to confinement, a fine not to exceed \$10,000.

A felony of the first degree is punishable by imprisonment in the institutional division for any term of not more than 99 years or less than 5 years, or, in addition to confinement, a fine not to exceed \$10,000.

The bill increases the punishment of theft of property belonging to a nonprofit organization to the next higher category. Increasing the penalty for any criminal offense is expected to result in increased demands upon the correctional resources of counties or of the State due to longer terms of probation, or, longer terms of confinement in county jails or prison. The additional impact to criminal justice populations from the bill would vary greatly depending on the number of times theft of a nonprofit occurred.

The probable impact of implementing the provision of this bill cannot be determined due to the unavailability of reliable data or information related to the circumstances involved in theft of property belonging to a nonprofit organization.

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LBB Staff: JOB, GG, LM