

1-1 By: Rodriguez S.B. No. 1024
1-2 (In the Senate - Filed March 1, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Criminal Justice;
1-4 April 18, 2011, reported favorably by the following vote: Yeas 7,
1-5 Nays 0; April 18, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the prosecution of the offense of theft of service.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 31.04, Penal Code, is amended by
1-11 amending Subsection (a) and adding Subsection (d-1) to read as
1-12 follows:

1-13 (a) A person commits theft of service if, with intent to
1-14 avoid payment for service that the actor [~~he~~] knows is provided only
1-15 for compensation:

1-16 (1) the actor [~~he~~] intentionally or knowingly secures
1-17 performance of the service by deception, threat, or false token;

1-18 (2) having control over the disposition of services of
1-19 another to which the actor [~~he~~] is not entitled, the actor [~~he~~]
1-20 intentionally or knowingly diverts the other's services to the
1-21 actor's [~~his~~] own benefit or to the benefit of another not entitled
1-22 to the services [~~them~~];

1-23 (3) having control of personal property under a
1-24 written rental agreement, the actor [~~he~~] holds the property beyond
1-25 the expiration of the rental period without the effective consent
1-26 of the owner of the property, thereby depriving the owner of the
1-27 property of its use in further rentals; or

1-28 (4) the actor [~~he~~] intentionally or knowingly secures
1-29 the performance of the service by agreeing to provide compensation
1-30 and, after the service is rendered, fails to make full payment after
1-31 receiving notice demanding payment.

1-32 (d-1) For purposes of Subsection (a)(4):

1-33 (1) if the compensation is or was to be paid on a
1-34 periodic basis, the intent to avoid payment for a service may be
1-35 formed at any time during or before a pay period; and

1-36 (2) the partial payment of wages alone is not
1-37 sufficient evidence to negate the actor's intent to avoid payment
1-38 for a service.

1-39 SECTION 2. The change in law made by this Act applies only
1-40 to an offense committed on or after the effective date of this Act.
1-41 An offense committed before the effective date of this Act is
1-42 governed by the law in effect on the date the offense was committed,
1-43 and the former law is continued in effect for that purpose. For
1-44 purposes of this section, an offense was committed before the
1-45 effective date of this Act if any element of the offense occurred
1-46 before that date.

1-47 SECTION 3. This Act takes effect September 1, 2011.

1-48 * * * * *