

BILL ANALYSIS

C.S.H.B. 2849
By: White
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, penalties for offenses committed against property in the Penal Code are based on the amount of pecuniary loss resulting from the commission of the offense. Interested parties note that the dollar values used to set different penalty grades were established two decades ago and have not been adjusted to reflect inflation. Critics assert that these outdated monetary thresholds in laws assessing penalties for property offenses result in undue costs for Texas taxpayers. C.S.H.B. 2849 seeks to bring property offense penalties in line with current dollar values to more accurately reflect the value of property that has been damaged, lost, or otherwise negatively impacted due to commission of such an offense.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2849 amends the Penal Code to increase the threshold amounts of pecuniary loss resulting from an offense of criminal mischief, interference with railroad property, and graffiti that is used to determine the penalty grade for such an offense. The bill creates a Class C misdemeanor graffiti offense when the amount of pecuniary loss resulting from the offense is less than \$100 and increases the established threshold amounts of pecuniary loss resulting from arson, criminal mischief, and other property damage or destruction-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in statutory provisions regarding those offenses.

C.S.H.B. 2849 increases the threshold amounts of the monetary value of property or service stolen or value of merchandise involved in the activity resulting from an offense of theft, theft of service, and organized retail theft, respectively, that is used to determine the penalty grade for such an offense. The bill creates a Class C misdemeanor organized retail theft offense when the total value of merchandise involved in the activity is less than \$100 and increases the established threshold amounts of the value of stolen property or service resulting from theft-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in theft-related provisions.

C.S.H.B. 2849 increases the threshold amounts of the retail value of an item or service or the value of property, a motor vehicle, a benefit, or pecuniary interest, or amount of a record of a sale, as applicable, involved in the offense, that is used to determine the penalty grade for the following fraud offenses: trademark counterfeiting; false statement to obtain property, credit, or certain services; hindering secured creditors; fraudulent transfer of a motor vehicle; credit card transaction record laundering; illegal recruitment of an athlete; misapplication of fiduciary property or financial institution property; and securing execution of a document by deception. The bill creates first degree felony and second degree felony fraudulent transfer of a motor vehicle offenses and establishes the thresholds of the value of a motor vehicle associated with

each such penalty grade. The bill increases the established threshold amounts of value of a property or service involved in fraud-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in fraud-related provisions.

C.S.H.B. 2849 increases the threshold amounts of the aggregate amount a breach of computer security offense committed with intent to defraud or harm another or alter, damage, or delete property used to determine the penalty grade for such an offense and creates a Class C, Class B, and Class A misdemeanor breach of security offense and establishes the thresholds amounts associated with each such penalty grade. The bill increases the threshold amounts of the value of telecommunications service used, diverted, obtained, or attempted to be obtained in the commission of an unauthorized use or theft of telecommunications service offense, as applicable, used to determine the penalty grade for such an offense and creates a Class C misdemeanor for both offenses and establishes the threshold amounts of the telecommunications service value associated with such penalty grade.

C.S.H.B. 2849 increases the threshold amounts of the value of funds, value of a claim, the amount of certain Medicaid-related payments, benefits or claims, and value of the use of the thing misused, as applicable, involved in the commission of an offense of money laundering, insurance fraud, Medicaid fraud, and abuse of office used to determine the penalty grade for such an offense. The bill increases the established threshold amounts of the value of a good or service under insurance fraud provisions relating to the value of a claim if the good or service has value that cannot be reasonably ascertained by criteria set forth in such provisions.

C.S.H.B. 2849 amends the Code of Criminal Procedure to include a person charged with committing a Class A misdemeanor graffiti offense among the persons to whom a peace officer is authorized to issue a citation containing notice to appear before a magistrate, instead of taking the person before a magistrate.

EFFECTIVE DATE

September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2849 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Sections 28.03(b), (f), (h), (i), and (j), Penal Code, are amended to read as follows:

(b) Except as provided by Subsections (f), ~~and (h), (i), and (j),~~ an offense under this section is punishable as provided by

~~Section 28.09 [:~~

~~[(1) a Class C misdemeanor if:~~

~~[(A) the amount of pecuniary loss is less than \$50; or~~

~~[(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;~~

~~[(2) a Class B misdemeanor if the amount of pecuniary loss is \$50 or more but less~~

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Sections 28.03(b), (f), (h), and (j), Penal Code, are amended to read as follows:

(b) Except as provided by Subsections (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$100 [\$50]; or

(B) except as provided in Subdivision (3)(A) or (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 [\$50] or more but less

than \$500;
[3] a Class A misdemeanor if:
[(A) the amount of pecuniary loss is \$500 or more but less than \$1,500; or

[(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

[(4) a state jail felony if the amount of pecuniary loss is:

[(A) \$1,500 or more but less than \$20,000;

[(B) less than \$1,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

[(C) less than \$1,500, if the property was a fence used for the production or containment of:

[(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

[(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

[(D) less than \$20,000 and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

[(5) a felony of the third degree if the amount of the pecuniary loss is \$20,000 or more but less than \$100,000;

[(6) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or

[(7) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more].

(f) An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of

than \$1,500 [\$500];
(3) a Class A misdemeanor if:
(A) the amount of pecuniary loss is \$1,500 [\$500] or more but less than \$3,000 [\$1,500];
or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

(4) a state jail felony if the amount of pecuniary loss is:

(A) \$3,000 [\$1,500] or more but less than \$30,000 [\$20,000];

(B) less than \$3,000 [\$1,500], if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(C) less than \$3,000 [\$1,500], if the property was a fence used for the production or containment of:

(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code; or

(D) less than \$30,000 [\$20,000] and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if the amount of the pecuniary loss is \$30,000 [\$20,000] or more but less than \$150,000 [\$100,000];

(6) a felony of the second degree if the amount of pecuniary loss is \$150,000 [\$100,000] or more but less than \$300,000 [\$200,000]; or

(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 [\$200,000] or more.

(f) An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the

the pecuniary loss to real property or to tangible personal property is less than \$30,000 [~~\$20,000~~].

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~] and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

(i) An [~~Notwithstanding Subsection (b), an~~] offense under this section is a felony of the first degree if the property is livestock and the damage is caused by introducing bovine spongiform encephalopathy, commonly known as mad cow disease, or a disease described by Section 161.041(a), Agriculture Code. In this subsection, "livestock" has the meaning assigned by Section 161.001, Agriculture Code.

(j) An [~~Notwithstanding Subsection (b), an~~] offense under this section is a felony of the third degree if:

(1) the tangible property damaged, destroyed, or tampered with is transportation communications equipment or a transportation communications device; and

(2) the amount of the pecuniary loss to the tangible property is less than \$150,000 [~~\$100,000~~].

No equivalent provision.

No equivalent provision.

pecuniary loss to real property or to tangible personal property is \$1,500 or more but less than \$30,000 [~~\$20,000~~].

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$1,500 or more but less than \$30,000 [~~\$20,000~~] and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

(i) An [~~Notwithstanding Subsection (b), an~~] offense under this section is a felony of the first degree if the property is livestock and the damage is caused by introducing bovine spongiform encephalopathy, commonly known as mad cow disease, or a disease described by Section 161.041(a), Agriculture Code. In this subsection, "livestock" has the meaning assigned by Section 161.001, Agriculture Code.

(j) An [~~Notwithstanding Subsection (b), an~~] offense under this section is a felony of the third degree if:

(1) the tangible property damaged, destroyed, or tampered with is transportation communications equipment or a transportation communications device; and

(2) the amount of the pecuniary loss to the tangible property is less than \$150,000 [~~\$100,000~~].

SECTION 2. Section 28.06(d), Penal Code, is amended to read as follows:

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c), the amount of loss is deemed to be greater than \$1,500 [~~\$500~~] but less than \$3,000 [~~\$1,500~~].

SECTION 3. Section 28.07(e), Penal Code, is amended to read as follows:

(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) is a Class C misdemeanor unless the person causes pecuniary loss of \$100 or more, in which event the offense is:

(1) a Class B misdemeanor if the amount of pecuniary loss is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];

(2) a Class A misdemeanor if the amount of pecuniary loss is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

- (3) a state jail felony if the amount of pecuniary loss is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (4) a felony of the third degree if the amount of the pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (5) a felony of the second degree if the amount of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (6) a felony of the first degree if the amount of the pecuniary loss is \$300,000 [~~\$200,000~~] or more.

SECTION 2. Sections 28.08(b) and (d), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (d), an offense under this section is punishable as provided by Section 28.09[-:

- ~~[(1) a Class B misdemeanor if the amount of pecuniary loss is less than \$500;~~
- ~~[(2) a Class A misdemeanor if the amount of pecuniary loss is \$500 or more but less than \$1,500;~~
- ~~[(3) a state jail felony if the amount of pecuniary loss is \$1,500 or more but less than \$20,000;~~
- ~~[(4) a felony of the third degree if the amount of pecuniary loss is \$20,000 or more but less than \$100,000;~~
- ~~[(5) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or~~

~~[(6) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more].~~

(d) An offense under this section is a state jail felony if:

- (1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and
- (2) the amount of the pecuniary loss to real property or to tangible personal property is less than \$30,000 [~~\$20,000~~].

SECTION 4. Sections 28.08(b) and (d), Penal Code, are amended to read as follows:

(b) Except as provided by Subsection (d), an offense under this section is:

- (1) a Class C misdemeanor if the amount of pecuniary loss is less than \$100;
- (2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$1,500 [~~\$500~~];
- (3) ~~[(2)]~~ a Class A misdemeanor if the amount of pecuniary loss is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) ~~[(3)]~~ a state jail felony if the amount of pecuniary loss is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) ~~[(4)]~~ a felony of the third degree if the amount of pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) ~~[(5)]~~ a felony of the second degree if the amount of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) ~~[(6)]~~ a felony of the first degree if the amount of pecuniary loss is \$300,000 [~~\$200,000~~] or more.

(d) An offense under this section is a state jail felony if:

- (1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and
- (2) the amount of the pecuniary loss to real property or to tangible personal property is \$1,500 or more but less than \$30,000 [~~\$20,000~~].

SECTION 3. Chapter 28, Penal Code, is amended by adding Section 28.09 to read as follows:

Sec. 28.09. GENERAL PENALTY. (a) An offense under Section 28.03 or 28.08 is:
(1) a Class C misdemeanor if:
(A) the amount of pecuniary loss is less than \$100; or
(B) the offense was committed under Section 28.03 and, except as provided by Subdivision (3)(B) or (4)(C)(iii) of this subsection, it causes substantial inconvenience to others;
(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$1,500;
(3) a Class A misdemeanor if:
(A) the amount of pecuniary loss is \$1,500 or more but less than \$3,000; or
(B) the offense was committed under Section 28.03 and the actor causes wholly or partly impairment or interruption of any public water supply, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;
(4) a state jail felony if:
(A) the amount of pecuniary loss is \$3,000 or more but less than \$30,000;
(B) the offense was committed under Section 28.03 and the amount of pecuniary loss is less than \$3,000, if the property damaged or destroyed was:
(i) a fence used for the production or containment of:
(a) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or
(b) game animals, as that term is defined by Section 63.001, Parks and Wildlife Code; or
(ii) a habitation and the damage or destruction was caused by a firearm or explosive weapon; or
(C) the offense:
(i) was committed under Section 28.03;
(ii) the amount of pecuniary loss is less than \$30,000; and
(iii) the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including

installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if the amount of pecuniary loss is \$30,000 or more but less than \$150,000;

(6) a felony of the second degree if the amount of pecuniary loss is \$150,000 or more but less than \$300,000; or

(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 or more.

(b) The terms "public communication, public transportation, public gas or power supply, or other public service" and "public water supply" shall mean, refer to, and include any such services subject to regulation by the Public Utility Commission of Texas, the Railroad Commission of Texas, or the Texas Commission on Environmental Quality or any such services enfranchised by the State of Texas or any political subdivision thereof.

(c) When more than one item of tangible property, belonging to one or more owners, is damaged, destroyed, or tampered with in violation of Section 28.03 pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the damage to, destruction of, or tampering with the property may be aggregated in determining the grade of the offense.

(d) When more than one item of tangible property, belonging to one or more owners, is marked in violation of Section 28.08 pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense, and the amounts of pecuniary loss to property resulting from the marking of the property may be aggregated in determining the grade of the offense.

(e) In this section:

(1) "Explosive weapon" means any explosive or incendiary device that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes:

- (A) an explosive or incendiary bomb, grenade, rocket, and mine;
 - (B) a device designed, made, or adapted for delivering or shooting an explosive weapon; and
 - (C) a device designed, made, or adapted to start a fire in a time-delayed manner.
- (2) "Firearm" has the meaning assigned by Section 46.01.

SECTION 4. The following laws are repealed:

- (1) Section 28.03(d), Penal Code; and
- (2) Sections 28.03(g)(1) and (2), Penal Code.

SECTION 5. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

No equivalent provision.

No equivalent provision.

No equivalent provision.

SECTION 5. Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d) Subsection (c) applies only to a person charged with committing an offense under:

- (1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;
- (1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;
- (2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;
- (3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) [~~(b)(1)~~] of that section;
- (4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;
- (5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;
- (6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

No equivalent provision.

(7) Section 521.457, Transportation Code.

SECTION 6. 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) \$100 [~~\$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) \$100 [~~\$50~~] or more but less than \$1,500 [~~\$500~~]; or

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

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

(i) \$100 [~~\$50~~] and the defendant has previously been convicted of any grade of theft; or

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

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

(4) a state jail felony if:

(A) the value of the property stolen is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~], or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$30,000 [~~\$20,000~~];

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

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

(D) the value of the property stolen is less than \$3,000 [~~\$1,500~~] and the defendant has been previously convicted two or more times of any grade of theft;

- (E) the property stolen is an official ballot or official carrier envelope for an election; or
- (F) the value of the property stolen is less than \$30,000 [~~\$20,000~~] and the property stolen is:
 - (i) aluminum;
 - (ii) bronze;
 - (iii) copper; or
 - (iv) brass;
- (5) a felony of the third degree if the value of the property stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~], or the property is:
 - (A) 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 \$150,000 [~~\$100,000~~]; or
 - (B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if:
 - (A) the value of the property stolen is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
 - (B) the value of the property stolen is less than \$300,000 [~~\$200,000~~] and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or
- (7) a felony of the first degree if the value of the property stolen is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 7. Sections 31.04(b) and (e), Penal Code, are amended to read as follows:

- (b) For purposes of this section, intent to avoid payment is presumed if:
 - (1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational vehicle parks, restaurants, and comparable establishments;
 - (2) the actor failed to make payment under a service agreement within 10 days after receiving notice demanding payment;
 - (3) the actor returns property held under a rental agreement after the expiration of the rental agreement and fails to pay the applicable rental charge for the property within 10 days after the date on which the actor received notice demanding payment; or

- (4) the actor failed to return the property held under a rental agreement:
 - (A) within five days after receiving notice demanding return, if the property is valued at less than \$3,000 [~~\$1,500~~]; or
 - (B) within three days after receiving notice demanding return, if the property is valued at \$3,000 [~~\$1,500~~] or more.
- (e) An offense under this section is:
 - (1) a Class C misdemeanor if the value of the service stolen is less than \$100 [~~\$20~~];
 - (2) a Class B misdemeanor if the value of the service stolen is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];
 - (3) a Class A misdemeanor if the value of the service stolen is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
 - (4) a state jail felony if the value of the service stolen is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
 - (5) a felony of the third degree if the value of the service stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
 - (6) a felony of the second degree if the value of the service stolen is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
 - (7) a felony of the first degree if the value of the service stolen is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 8. Section 31.08(c), Penal Code, is amended to read as follows:

- (c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b), the property or service is deemed to have a value of \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~].

No equivalent provision.

SECTION 9. Sections 31.16(c) and (d), Penal Code, are amended to read as follows:

- (c) An offense under this section is:
 - (1) a Class C misdemeanor if the total value of the merchandise involved in the activity is less than \$100;
 - (2) a Class B misdemeanor if the total value of the merchandise involved in the activity is \$100 or more but less than \$1,500 [~~\$50~~];
 - (3) [~~(2)~~] a Class A misdemeanor if the total value of the merchandise involved in the activity is \$1,500 [~~\$50~~] or more but less than \$3,000 [~~\$500~~];
 - (4) [~~(3)~~] a state jail felony if the total value of the merchandise involved in the activity is

\$3,000 [~~\$500~~] or more but less than \$30,000 [~~\$1,500~~];

(5) [~~(4)~~] a felony of the third degree if the total value of the merchandise involved in the activity is \$30,000 [~~\$1,500~~] or more but less than \$150,000 [~~\$20,000~~];

(6) [~~(5)~~] a felony of the second degree if the total value of the merchandise involved in the activity is \$150,000 [~~\$20,000~~] or more but less than \$300,000 [~~\$100,000~~]; or

(7) [~~(6)~~] a felony of the first degree if the total value of the merchandise involved in the activity is \$300,000 [~~\$100,000~~] or more.

(d) An offense described for purposes of punishment by Subsections (c)(1)-(6) [~~(c)(1)-(5)~~] is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b); or

(2) during the commission of the offense, a person engaged in an activity described by Subsection (b) intentionally, knowingly, or recklessly:

(A) caused a fire exit alarm to sound or otherwise become activated;

(B) deactivated or otherwise prevented a fire exit alarm or retail theft detector from sounding; or

(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector.

No equivalent provision.

SECTION 10. Section 32.02(c), Penal Code, is amended to read as follows:

(c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b), the property or service is deemed to have a value of \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~].

No equivalent provision.

SECTION 11. Section 32.23(e), Penal Code, is amended to read as follows:

(e) An offense under this section is a:

(1) Class C misdemeanor if the retail value of the item or service is less than \$100 [~~\$20~~];

(2) Class B misdemeanor if the retail value of the item or service is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];

(3) Class A misdemeanor if the retail value of the item or service is \$1,500 [~~\$500~~] or

- more but less than \$3,000 [~~\$1,500~~];
- (4) state jail felony if the retail value of the item or service is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) felony of the third degree if the retail value of the item or service is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) felony of the second degree if the retail value of the item or service is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) felony of the first degree if the retail value of the item or service is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 12. Section 32.32(c), Penal Code, is amended to read as follows:

(c) An offense under this section is:

- (1) a Class C misdemeanor if the value of the property or the amount of credit is less than \$100 [~~\$50~~];
- (2) a Class B misdemeanor if the value of the property or the amount of credit is \$100 [~~\$50~~] or more but less than \$1,500 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the property or the amount of credit is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) a state jail felony if the value of the property or the amount of credit is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the value of the property or the amount of credit is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the value of the property or the amount of credit is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) a felony of the first degree if the value of the property or the amount of credit is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 13. Sections 32.33(d) and (e), Penal Code, are amended to read as follows:

(d) An offense under Subsection (b) is a:

- (1) Class C misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is less than \$100 [~~\$20~~];
- (2) Class B misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$100 [~~\$20~~] or more but less than

\$1,500 [~~\$500~~];

(3) Class A misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

(4) state jail felony if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) felony of the third degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) felony of the second degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~];
or

(7) felony of the first degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$300,000 [~~\$200,000~~] or more.

(e) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate (as defined in Chapter 31) the proceeds or value of the secured property. A person is presumed to have intended to appropriate proceeds if the person does not deliver the proceeds to the secured party or account to the secured party for the proceeds before the 11th day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

(1) a Class C misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of less than \$100 [~~\$20~~];

(2) a Class B misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];

(3) a Class A misdemeanor if the proceeds

- obtained from the sale or other disposition are money or goods having a value of \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) a state jail felony if the proceeds obtained from the sale or other disposition are money or goods having a value of \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) a felony of the first degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 14. Section 32.34(f), Penal Code, is amended to read as follows:

- (f) An offense under Subsection (b)(1), (b)(2), or (b)(3) is:
- (1) a state jail felony if the value of the motor vehicle is less than \$30,000 [~~\$20,000~~]; [~~or~~]
- (2) a felony of the third degree if the value of the motor vehicle is \$30,000 [~~\$20,000~~] or more but less than \$150,000;
- (3) a felony of the second degree if the value of the motor vehicle is \$150,000 or more but less than \$300,000; or
- (4) a felony of the first degree if the value of the motor vehicle is \$300,000 or more.

No equivalent provision.

SECTION 15. Section 32.35(e), Penal Code, is amended to read as follows:

- (e) An offense under this section is a:
- (1) Class C misdemeanor if the amount of the record of a sale is less than \$100 [~~\$20~~];
- (2) Class B misdemeanor if the amount of the record of a sale is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];
- (3) Class A misdemeanor if the amount of the record of a sale is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) state jail felony if the amount of the record of a sale is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) felony of the third degree if the amount of the record of a sale is \$30,000 [~~\$20,000~~]

- or more but less than \$150,000 [~~\$100,000~~];
- (6) felony of the second degree if the amount of the record of a sale is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) felony of the first degree if the amount of the record of a sale is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 16. Section 32.441(e), Penal Code, is amended to read as follows:

- (e) An offense under this section is a:
- (1) Class C misdemeanor if the value of the benefit is less than \$100 [~~\$20~~];
- (2) Class B misdemeanor if the value of the benefit is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];
- (3) Class A misdemeanor if the value of the benefit is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) state jail felony if the value of the benefit is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) felony of the third degree if the value of the benefit is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) felony of the second degree if the value of the benefit is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) felony of the first degree if the value of the benefit is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 17. Section 32.45(c), Penal Code, is amended to read as follows:

- (c) An offense under this section is:
- (1) a Class C misdemeanor if the value of the property misapplied is less than \$100 [~~\$20~~];
- (2) a Class B misdemeanor if the value of the property misapplied is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the property misapplied is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
- (4) a state jail felony if the value of the property misapplied is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the value of the property misapplied is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the value of the property misapplied is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) a felony of the first degree if the value of the property misapplied is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 18. Section 32.46(b), Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) is a:

(1) Class C misdemeanor if the value of the property, service, or pecuniary interest is less than \$100 [~~\$20~~];

(2) Class B misdemeanor if the value of the property, service, or pecuniary interest is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];

(3) Class A misdemeanor if the value of the property, service, or pecuniary interest is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

(4) state jail felony if the value of the property, service, or pecuniary interest is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) felony of the third degree if the value of the property, service, or pecuniary interest is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) felony of the second degree if the value of the property, service, or pecuniary interest is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) felony of the first degree if the value of the property, service, or pecuniary interest is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 19. Section 33.02(b-2), Penal Code, is amended to read as follows:

(b-2) An offense under Subsection (b-1) is:

(1) a Class C misdemeanor if the aggregate amount involved is less than \$100;

(2) a Class B misdemeanor if the aggregate amount involved is \$100 or more but less than \$1,500;

(3) a Class A misdemeanor if the aggregate amount involved is \$1,500 or more but less than \$3,000;

(4) [(4)] a state jail felony if the aggregate amount involved is \$3,000 or more but less than \$30,000 [~~\$20,000~~];

(5) [(2)] a felony of the third degree if the aggregate amount involved is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) [(3)] a felony of the second degree if:

(A) the aggregate amount involved is \$150,000 [~~\$100,000~~] or more but less than

\$300,000 [~~\$200,000~~];

(B) the aggregate amount involved is any amount less than \$300,000 [~~\$200,000~~] and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or

(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or

(7) [~~(4)~~] a felony of the first degree if:

(A) the aggregate amount involved is \$300,000 [~~\$200,000~~] or more; or

(B) the actor obtains the identifying information of another by accessing more than one computer, computer network, or computer system.

No equivalent provision.

SECTION 20. Section 33A.02(b), Penal Code, is amended to read as follows:

(b) An offense under this section is:

(1) a Class C misdemeanor if the value of the telecommunications service used or diverted is less than \$100;

(2) a Class B misdemeanor if the value of the telecommunications service used or diverted is \$100 or more but less than \$1,500 [~~\$500~~];

(3) [~~(2)~~] a Class A misdemeanor if:

(A) the value of the telecommunications service used or diverted is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~]; or

(B) the value of the telecommunications service used or diverted is less than \$1,500 [~~\$500~~] and the defendant has been previously convicted of an offense under this chapter;

(4) [~~(3)~~] a state jail felony if:

(A) the value of the telecommunications service used or diverted is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~]; or

(B) the value of the telecommunications service used or diverted is less than \$3,000 [~~\$1,500~~] and the defendant has been previously convicted two or more times of an offense under this chapter;

(5) [~~(4)~~] a felony of the third degree if the value of the telecommunications service used or diverted is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) [~~(5)~~] a felony of the second degree if the value of the telecommunications service used or diverted is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) [~~(6)~~] a felony of the first degree if the

value of the telecommunications service used or diverted is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 21. Section 33A.04(b), Penal Code, is amended to read as follows:

(b) An offense under this section is:

(1) a Class C misdemeanor if the value of the telecommunications service obtained or attempted to be obtained is less than \$100;

(2) a Class B misdemeanor if the value of the telecommunications service obtained or attempted to be obtained is \$100 or more but less than \$1,500 [~~\$500~~];

(3) [~~(2)~~] a Class A misdemeanor if:

(A) the value of the telecommunications service obtained or attempted to be obtained is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~]; or

(B) the value of the telecommunications service obtained or attempted to be obtained is less than \$1,500 [~~\$500~~] and the defendant has been previously convicted of an offense under this chapter;

(4) [~~(3)~~] a state jail felony if:

(A) the value of the telecommunications service obtained or attempted to be obtained is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~]; or

(B) the value of the telecommunications service obtained or attempted to be obtained is less than \$3,000 [~~\$1,500~~] and the defendant has been previously convicted two or more times of an offense under this chapter;

(5) [~~(4)~~] a felony of the third degree if the value of the telecommunications service obtained or attempted to be obtained is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) [~~(5)~~] a felony of the second degree if the value of the telecommunications service obtained or attempted to be obtained is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) [~~(6)~~] a felony of the first degree if the value of the telecommunications service obtained or attempted to be obtained is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 22. Section 34.02(e), Penal Code, is amended to read as follows:

(e) An offense under this section is:

(1) a state jail felony if the value of the funds is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

- (2) a felony of the third degree if the value of the funds is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (3) a felony of the second degree if the value of the funds is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (4) a felony of the first degree if the value of the funds is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 23. Section 35.02(c), Penal Code, is amended to read as follows:

- (c) An offense under Subsection (a) or (b) is:
 - (1) a Class C misdemeanor if the value of the claim is less than \$100 [~~\$50~~];
 - (2) a Class B misdemeanor if the value of the claim is \$100 [~~\$50~~] or more but less than \$1,500 [~~\$500~~];
 - (3) a Class A misdemeanor if the value of the claim is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];
 - (4) a state jail felony if the value of the claim is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
 - (5) a felony of the third degree if the value of the claim is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
 - (6) a felony of the second degree if the value of the claim is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
 - (7) a felony of the first degree if:
 - (A) the value of the claim is \$300,000 [~~\$200,000~~] or more; or
 - (B) an act committed in connection with the commission of the offense places a person at risk of death or serious bodily injury.

No equivalent provision.

SECTION 24. Section 35.025(b), Penal Code, is amended to read as follows:

- (b) If goods or services that are the subject of a claim cannot be reasonably ascertained under Subsection (a), the goods or services are considered to have a value of \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~].

No equivalent provision.

SECTION 25. Section 35A.02(b), Penal Code, is amended to read as follows:

- (b) An offense under this section is:
 - (1) a Class C misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is less than \$100 [~~\$50~~];
 - (2) a Class B misdemeanor if the amount of any payment or the value of any monetary or

in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$100 [~~\$50~~] or more but less than \$1,500 [~~\$500~~];

(3) a Class A misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

(4) a state jail felony if:

(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(B) the offense is committed under Subsection (a)(11); or

(C) it is shown on the trial of the offense that the amount of the payment or value of the benefit described by this subsection cannot be reasonably ascertained;

(5) a felony of the third degree if:

(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~]; or

(B) it is shown on the trial of the offense that the defendant submitted more than 25 but fewer than 50 fraudulent claims under the Medicaid program and the submission of each claim constitutes conduct prohibited by Subsection (a);

(6) a felony of the second degree if:

(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(B) it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under the Medicaid program and the submission of each claim constitutes conduct prohibited by Subsection (a); or

(7) a felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for

payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 26. Section 39.02(c), Penal Code, is amended to read as follows:

(c) An offense under Subsection (a)(2) is:

(1) a Class C misdemeanor if the value of the use of the thing misused is less than \$100 [~~\$20~~];

(2) a Class B misdemeanor if the value of the use of the thing misused is \$100 [~~\$20~~] or more but less than \$1,500 [~~\$500~~];

(3) a Class A misdemeanor if the value of the use of the thing misused is \$1,500 [~~\$500~~] or more but less than \$3,000 [~~\$1,500~~];

(4) a state jail felony if the value of the use of the thing misused is \$3,000 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) a felony of the third degree if the value of the use of the thing misused is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) a felony of the second degree if the value of the use of the thing misused is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) a felony of the first degree if the value of the use of the thing misused is \$300,000 [~~\$200,000~~] or more.

No equivalent provision.

SECTION 27. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 6. This Act takes effect September 1, 2013.

SECTION 28. Same as introduced version.