

**House Bill 1396**  
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HOUSE VERSION

No equivalent provision.

SENATE VERSION (IE)

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SECTION \_\_. Article 18.02(a), Code of Criminal Procedure, is amended to read as follows:

- (a) A search warrant may be issued to search for and seize:
  - (1) property acquired by theft or in any other manner which makes its acquisition a penal offense;
  - (2) property specially designed, made, or adapted for or commonly used in the commission of an offense;
  - (3) arms and munitions kept or prepared for the purposes of insurrection or riot;
  - (4) weapons prohibited by the Penal Code;
  - (5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;
  - (6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;
  - (7) a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the laws of this state;
  - (8) any property the possession of which is prohibited by law;
  - (9) implements or instruments used in the commission of a crime;
  - (10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense;
  - (11) persons;
  - (12) contraband subject to forfeiture under Chapter 59 of this code; ~~[ø]~~
  - (13) electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication

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held in electronic storage; or  
(14) a cellular telephone or other wireless communications device, subject to Article 18.0215. [FA1(2)]

No equivalent provision.

SECTION \_\_. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.0215 to read as follows:

Art. 18.0215. ACCESS TO CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE. (a) A peace officer may not search a person's cellular telephone or other wireless communications device, pursuant to a lawful arrest of the person or otherwise, without obtaining a warrant under this article.

(b) A warrant under this article may be issued only by a district judge in the same judicial district as the site of:

(1) the law enforcement agency that employs the peace officer, if the cellular telephone or other wireless communications device is in the officer's possession; or

(2) the likely location of the telephone or device.

(c) A district judge may issue a warrant under this article only on the application of a peace officer. An application must be written and signed and sworn to or affirmed before the judge.

The application must:

(1) state the name, department, agency, and address of the applicant;

(2) identify the cellular telephone or other wireless communications device to be searched;

(3) state the name of the owner or possessor of the telephone or device to be searched;

(4) state the judicial district in which:

(A) the law enforcement agency that employs the peace officer is located, if the telephone or device is in the officer's possession; or

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(B) the telephone or device is likely to be located; and  
(5) state the facts and circumstances that provide the applicant with probable cause to believe that:  
(A) criminal activity has been, is, or will be committed; and  
(B) searching the telephone or device is likely to produce evidence in the investigation of the criminal activity described in Paragraph (A).  
(d) Notwithstanding any other law, a peace officer may search a cellular telephone or other wireless communications device without a warrant if:  
(1) the owner or possessor of the telephone or device consents to the search;  
(2) the telephone or device is reported stolen by the owner or possessor; or  
(3) the officer reasonably believes that:  
(A) the telephone or device is in the possession of a fugitive from justice for whom an arrest warrant has been issued for committing a felony offense; or  
(B) there exists an immediate life-threatening situation, as defined by Section 1, Article 18.20.  
(e) A peace officer must apply for a warrant to search a cellular telephone or other wireless communications device as soon as practicable after a search is conducted under Subsection (d)(3)(A) or (B). If the district judge finds that the applicable situation under Subsection (d)(3)(A) or (B) did not occur and declines to issue the warrant, any evidence obtained is not admissible in a criminal action. [FA1(2)]

No equivalent provision.

SECTION \_\_. Article 32A.01, Code of Criminal Procedure, is amended to read as follows:  
Art. 32A.01. TRIAL PRIORITIES. (a) Insofar as is practicable, the trial of a criminal action shall be given

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preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions not described by Subsection (b).

(b) Unless extraordinary circumstances require otherwise, the trial of a criminal action in which the alleged victim is younger than 14 years of age shall be given preference over other matters before the court, whether civil or criminal.  
[FA3]

SECTION 1. Subchapter C, Chapter 311, Government Code, is amended by adding Section 311.035 to read as follows:

Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and "element of offense" have the meanings assigned by Section 1.07, Penal Code.

(b) Except as provided by Subsection (c), a statute or rule that creates or defines a criminal offense or penalty shall be construed in favor of the actor if any part of the statute or rule is ambiguous on its face or as applied to the case, including:

(1) an element of offense; or

(2) the penalty to be imposed.

(c) Subsection (b) does not apply to a criminal offense or penalty under the Penal Code or under the Texas Controlled Substances Act.

(d) The ambiguity of a part of a statute or rule to which this section applies is a matter of law to be resolved by the judge.

SECTION 1. Same as House version.

SECTION 2. (a) A commission is created to study and review all penal laws of this state other than criminal offenses:

(1) under the Penal Code;

(2) under Chapter 481, Health and Safety Code; or

SECTION 2. Same as House version.

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- (3) related to the operation of a motor vehicle.
- (b) The commission shall:
  - (1) evaluate all laws described by Subsection (a) of this section; and
  - (2) make recommendations to the legislature regarding the repeal of laws that are identified as being unnecessary, unclear, duplicative, overly broad, or otherwise insufficient to serve the intended purpose of the law.
- (c) The commission is composed of nine members appointed as follows:
  - (1) two members appointed by the governor;
  - (2) two members appointed by the lieutenant governor;
  - (3) two members appointed by the speaker of the house of representatives;
  - (4) two members appointed by the chief justice of the Supreme Court of Texas; and
  - (5) one member appointed by the presiding judge of the Texas Court of Criminal Appeals.
- (d) The officials making appointments to the commission under Subsection (c) of this section shall ensure that the membership of the commission includes representatives of all areas of the criminal justice system, including prosecutors, defense attorneys, judges, legal scholars, and relevant business interests.
- (e) The governor shall designate one member of the commission to serve as the presiding officer of the commission.
- (f) A member of the commission is not entitled to compensation or reimbursement of expenses.
- (g) The commission shall meet at the call of the presiding officer.
- (h) Not later than November 1, 2016, the commission shall

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report the commission's findings and recommendations to the governor, the lieutenant governor, the speaker of the house of representatives, the Supreme Court of Texas, the Texas Court of Criminal Appeals, and the standing committees of the house of representatives and the senate with primary jurisdiction over criminal justice. The commission shall include in its recommendations any specific statutes that the commission recommends revising or repealing.

(i) Not later than November 1, 2015, the governor, the lieutenant governor, the speaker of the house of representatives, the chief justice of the Supreme Court of Texas, and the presiding judge of the Texas Court of Criminal Appeals shall appoint the members of the commission created under this section.

(j) The commission is abolished and this section expires December 31, 2016.

SECTION 3. The change in law made by this Act applies only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

**No equivalent provision.**

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SECTION 3. The change in law made by this Act **in adding** Section 311.035, Government Code, applies only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose. [FA1(1);Deleted by FA2(1)]

SECTION 4. Same as House version.

SECTION \_\_. 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:

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- (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 \$750 [~~\$500~~];
- (3) a Class A misdemeanor if:
  - (A) the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$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) \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
  - (B) less than \$2,500 [~~\$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 \$2,500 [~~\$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

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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 pecuniary loss to real property or to tangible personal property is \$750 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 \$750 [~~\$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.

(j) 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~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. Section 28.06(d), Penal Code, is amended to

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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 \$750 [~~\$500~~] but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];

(2) a Class A misdemeanor if the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(3) a state jail felony if the amount of pecuniary loss is \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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;

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(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$750 [~~\$500~~];

(3) [~~(2)~~] a Class A misdemeanor if the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) [~~(3)~~] a state jail felony if the amount of pecuniary loss is \$2,500 [~~\$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 \$750 or more but less than \$30,000 [~~\$20,000~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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;

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- (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)(4)]~~ 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
- (7) Section 521.457, Transportation Code. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$100;

~~[(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 \$100;

~~[(i) \$50] or more but less than \$750 [~~\$500~~;~~

~~[(ii) \$20 or more but less than \$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 \$100;

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

~~[(ii) \$20, the defendant has previously been convicted of any~~

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~~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 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if:

(A) the value of the property stolen is \$2,500 [~~\$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 \$2,500 [~~\$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:

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- (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. [FA2(2)]

No equivalent provision.

- SECTION \_\_. 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

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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 \$2,500 [~~\$1,500~~]; or

(B) within three days after receiving notice demanding return, if the property is valued at \$2,500 [~~\$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 \$750 [~~\$500~~];

(3) a Class A misdemeanor if the value of the service stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if the value of the service stolen is \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750

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[\$500] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$50~~];

~~(3)~~ [~~2~~] a Class A misdemeanor if the total value of the merchandise involved in the activity is \$750 [~~\$50~~] or more but less than \$2,500 [~~\$500~~];

~~(4)~~ [~~3~~] a state jail felony if the total value of the merchandise involved in the activity is \$2,500 [~~\$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

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(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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];

(3) Class A misdemeanor if the retail value of the item or service is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) state jail felony if the retail value of the item or service is \$2,500 [~~\$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~~];

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- (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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the property or the amount of credit is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) a state jail felony if the value of the property or the amount of credit is \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

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

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- (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 \$750 [~~\$500~~];
  - (3) Class A misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
  - (4) state jail felony if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is \$2,500 [~~\$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

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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 \$750 [~~\$500~~];

(3) a Class A misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$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 \$2,500 [~~\$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. [FA2(2)]

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No equivalent provision.

No equivalent provision.

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SECTION \_\_. 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. [FA2(2)]

SECTION \_\_. 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 \$750 [~~\$500~~];
- (3) Class A misdemeanor if the amount of the record of a sale is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) state jail felony if the amount of the record of a sale is \$2,500 [~~\$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. [FA2(2)]

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No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];
  - (3) Class A misdemeanor if the value of the benefit is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
  - (4) state jail felony if the value of the benefit is \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];
  - (3) a Class A misdemeanor if the value of the property misapplied is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
  - (4) a state jail felony if the value of the property misapplied is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
  - (5) a felony of the third degree if the value of the property

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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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];

(3) Class A misdemeanor if the value of the property, service, or pecuniary interest is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) state jail felony if the value of the property, service, or pecuniary interest is \$2,500 [~~\$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. [FA2(2)]

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SECTION \_\_. 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 \$750;

(3) a Class A misdemeanor if the aggregate amount involved is \$750 or more but less than \$2,500;

(4) [(4)] a state jail felony if the aggregate amount involved is \$2,500 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. [FA2(2)]

SECTION \_\_. Section 33A.02(b), Penal Code, is amended to

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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 \$750 [~~\$500~~];

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

(A) the value of the telecommunications service used or diverted is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

or

(B) the value of the telecommunications service used or diverted is less than \$750 [~~\$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 \$2,500 [~~\$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 \$2,500 [~~\$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. [FA2(2)]

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No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];

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

(A) the value of the telecommunications service obtained or attempted to be obtained is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]; or

(B) the value of the telecommunications service obtained or attempted to be obtained is less than \$750 [~~\$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 \$2,500 [~~\$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 \$2,500 [~~\$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

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\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];
  - (3) a Class A misdemeanor if the value of the claim is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
  - (4) a state jail felony if the value of the claim is \$2,500 [~~\$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

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\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$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 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

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- (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 \$2,500 [~~\$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

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claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION \_\_. 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 \$750 [~~\$500~~];

(3) a Class A misdemeanor if the value of the use of the thing misused is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if the value of the use of the thing misused is \$2,500 [~~\$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. [FA2(2)]

No equivalent provision.

SECTION \_\_. (a) Except as provided by Subsection (b) of this section, 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 subsection, an offense was

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committed before the effective date of this Act if any element of the offense occurred before that date.

(b) The change in law made by Section 311.035, Government Code, as added by this Act, applies only to a criminal proceeding that commences on or after the effective date of this Act. A criminal proceeding that commences before the effective date of this Act is governed by the law in effect on the date the proceeding commenced, and the former law is continued in effect for that purpose. [FA2(2)]