

BILL ANALYSIS

C.S.H.B. 3150
By: Burns
Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that education or diversion programs for low-risk shoplifters in lieu of arrest and prosecution free up time and resources within the legal system and serve as alternative methods of rehabilitation for such offenders. C.S.H.B. 3150 seeks to establish a merchant's ability to offer a person suspected of committing or attempting to commit theft an opportunity to complete a theft education program if the merchant wishes to do so.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

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. 3150 amends the Civil Practice and Remedies Code to establish that a person who is in the business of selling goods or services as a merchant is not precluded from offering a person who is suspected of stealing or attempting to steal property from the merchant an opportunity to complete a theft education program under the bill's provisions to deter theft and address criminal behavior instead of reporting the suspected offense to a law enforcement agency. The bill requires a merchant who offers a person an opportunity to complete a theft education program to notify the person of that opportunity in writing and to inform the person in writing of the civil and criminal remedies available to the merchant and the state, including informing the person that the merchant retains the right to report the suspected offense to a law enforcement agency if the person does not successfully complete the program. The bill prohibits a merchant who offers a person an opportunity to complete a theft education program from receiving compensation directly or indirectly from the provider of a theft education program described by the bill's provisions or from the person suspected of stealing or attempting to steal property from the merchant.

C.S.H.B. 3150 requires such a theft education program to address the type of alleged criminal offense, seek to modify the person's behavioral decision-making process, engage the person with interactive exercises designed to instill appropriate societal behavior, and promote accountability and reconciliation between the person and the merchant. The bill makes a person ineligible to participate in a theft education program if, within the five-year period preceding the date of the suspected offense, the person has previously attended any part of a theft education program, unless a court that would have jurisdiction over the prosecution of the suspected offense allows the person to participate in the program. The bill requires the provider of the program, if a person is so ineligible to participate in the program, to notify the merchant who offered the person the

opportunity to complete the program. The bill requires a provider of a theft education program to maintain records of all persons who have participated in the provider's program during the preceding five years and requires the provider, on a law enforcement agency's request, to disclose to the agency any records relating to a person's participation in the program.

C.S.H.B. 3150 prohibits a provider of a theft education program from discriminating against a person who is otherwise eligible to participate in the program based on the person's race, color, religion, sex, familial status, or national origin or based on the person's ability to pay and prohibits such a provider from charging a fee that exceeds \$500 for participation in the program. The bill requires a provider of a theft education program to develop a plan to offer discounts, alternative payment schedules, or scholarship funds to a person who the provider has verified is indigent and authorizes such a provider to reduce or waive the fee for the program based on such a person's ability to pay.

EFFECTIVE DATE

September 1, 2017.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 3150 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED

SECTION 1. Section 124.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 124.001. DETENTION. (a) A person who reasonably believes that another has stolen or is attempting to steal property is privileged to detain that person in a reasonable manner and for a reasonable time to investigate ownership of the property.

(b) A person who is in the business of selling goods or services as a merchant is not precluded from:

(1) offering a person who is suspected of stealing or attempting to steal property from the merchant an opportunity to complete the merchant's education program instead of reporting the suspected offense to a law enforcement agency;

(2) informing the other person of the civil and criminal remedies available to the merchant and the state; and

HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Section 124.001, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 124.001. DETENTION. (a) A person who reasonably believes that another has stolen or is attempting to steal property is privileged to detain that person in a reasonable manner and for a reasonable time to investigate ownership of the property.

(b) A person who is in the business of selling goods or services as a merchant is not precluded from

offering a person who is suspected of stealing or attempting to steal property from the merchant an opportunity to complete a theft education program under Section 124.002 to deter theft and address criminal behavior instead of reporting the suspected offense to a law enforcement agency.

(c) A merchant who offers a person an opportunity to complete a theft education program shall, in writing:

(1) notify the person of that opportunity; and

(2) inform the person of the civil and criminal remedies available to the merchant and the state, including informing the person that the merchant retains the right to report the suspected offense to a law enforcement

(3) reducing or waiving a fee for the education program based on the other person's ability to pay.

No equivalent provision.

agency if the person does not successfully complete the program.

(See Sec 124.002(g)(2) in SECTION 2 below.)

(d) A merchant who offers a person an opportunity to complete a theft education program may not receive compensation directly or indirectly from:

(1) the person suspected of stealing or attempting to steal property from the merchant; or

(2) the provider of a theft education program described by Section 124.002.

SECTION 2. Chapter 124, Civil Practice and Remedies Code, is amended by adding Section 124.002 to read as follows:

Sec. 124.002. THEFT EDUCATION PROGRAM. (a) A theft education program for a person who is suspected of stealing or attempting to steal property under Section 124.001 must:

(1) address the type of alleged criminal offense;

(2) seek to modify the person's behavioral decision-making process;

(3) engage the person with interactive exercises designed to instill appropriate societal behavior; and

(4) promote accountability and reconciliation between the person and the merchant.

(b) A person is not eligible to participate in a theft education program if, within the five-year period preceding the date of the suspected offense, the person has previously attended any part of a program under this section unless a court that would have jurisdiction over the prosecution of the suspected offense allows the person to participate in the program.

(c) A provider of a theft education program must maintain records of all persons who have participated in the provider's theft education program during the preceding five years. On a law enforcement agency's request, the provider shall disclose to the agency any records relating to a person's participation in the program.

(d) A provider of a theft education program may not discriminate against a person who

is otherwise eligible to participate in the program based on:

(1) the person's race, color, religion, sex, familial status, or national origin; or

(2) the person's ability to pay.

(e) If a person is not eligible to participate in a theft education program under Subsection (b), the provider of the program shall notify the merchant who offered the person the opportunity to complete the program under Section 124.001.

(f) A provider of a theft education program may not charge a fee that exceeds \$500 for participation in the program.

(g) A provider of a theft education program:

(1) shall develop a plan to offer discounts, alternative payment schedules, or scholarship funds to a person who the provider has verified is indigent; and

(2) may reduce or waive the fee for the program based on the ability to pay of a person described by Subdivision (1).

(See Sec. 124.001(b)(3) in SECTION 1 above.)

SECTION 2. This Act takes effect September 1, 2017.

SECTION 3. Same as introduced version.