86R6328 JCG-F

By:  Anderson H.B. No. 2522

A BILL TO BE ENTITLED

AN ACT

relating to the prosecution of the criminal offense of theft of service.

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

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

(a)  A person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation:

(1)  the actor intentionally or knowingly secures performance of the service by deception, threat, or false token;

(2)  having control over the disposition of services of another to which the actor is not entitled, the actor intentionally or knowingly diverts the other's services to the actor's own benefit or to the benefit of another not entitled to the services;

(3)  having control of personal property under a written rental agreement containing the notice and the actor's acknowledgement of that notice as required by Subsection (b-1), the actor holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, thereby depriving the owner of the property of its use in further rentals; or

(4)  the actor intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make full payment after receiving notice demanding payment.

(b)  For purposes of this section, the following are prima facie evidence of the actor's 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 $2,500; or

(B)  within three days after receiving notice demanding return, if the property is valued at $2,500 or more.

(b-1)  For purposes of Subsection (a)(3):

(1)  the written rental agreement or an addendum to the agreement must contain a notice in substantially the following form:

"NOTICE

Failure to return rental property on or before the date the rental period expires and failure to pay all amounts due, including costs for damage to the rental property, is prima facie evidence of an intent to avoid payment under Section 31.04 of the Texas Penal Code (Theft of Service)."; and

(2)  the notice described by Subdivision (1) must contain the signature or mark of the actor acknowledging the notice.

SECTION 2.  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.

SECTION 3.  This Act takes effect September 1, 2019.