

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

1 performance of the service by agreeing to provide compensation and,
2 after the service is rendered, fails to make full payment after
3 receiving notice demanding payment.

4 (b) For purposes of this section, the following are prima
5 facie evidence of the actor's intent to avoid payment [~~is presumed~~
6 ~~if~~]:

7 (1) the actor absconded without paying for the service
8 or expressly refused to pay for the service in circumstances where
9 payment is ordinarily made immediately upon rendering of the
10 service, as in hotels, campgrounds, recreational vehicle parks,
11 restaurants, and comparable establishments;

12 (2) the actor failed to make payment under a service
13 agreement within 10 days after receiving notice demanding payment;

14 (3) the actor returns property held under a rental
15 agreement after the expiration of the rental agreement and fails to
16 pay the applicable rental charge for the property within 10 days
17 after the date on which the actor received notice demanding
18 payment; or

19 (4) the actor failed to return the property held under
20 a rental agreement:

21 (A) within five days after receiving notice
22 demanding return, if the property is valued at less than \$2,500; or

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

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

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

1 form:

2 "NOTICE

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

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

11 SECTION 2. The change in law made by this Act applies only
12 to an offense committed on or after the effective date of this Act.
13 An offense committed before the effective date of this Act is
14 governed by the law in effect on the date the offense was committed,
15 and the former law is continued in effect for that purpose. For
16 purposes of this section, an offense was committed before the
17 effective date of this Act if any element of the offense occurred
18 before that date.

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