

By: Anderson, Collier

H.B. No. 2524

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. Sections 31.04(b), (c), and (d), 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 \$2,500;

1 ~~[or]~~

2 (B) within three days after receiving notice  
3 demanding return, if the property is valued at \$2,500 or more but  
4 less than \$10,000; or

5 (C) within two days after receiving notice  
6 demanding return, if the property is valued at \$10,000 or more.

7 (c) For purposes of Subsections (a)(4), (b)(2), and (b)(4),  
8 notice must ~~[shall]~~ be:

9 (1) [notice] in writing;

10 (2) [r] sent by:

11 (A) registered or certified mail with return  
12 receipt requested; or

13 (B) commercial delivery service with proof of  
14 receipt by the actor; ~~[or by telegram with report of delivery~~  
15 ~~requested,~~ and

16 (3) sent ~~[addressed]~~ to the actor using the actor's  
17 mailing ~~[at his]~~ address shown on the rental agreement or service  
18 agreement.

19 (d) If written notice is given in accordance with Subsection  
20 (c), it is presumed that the notice was received not ~~[no]~~ later than  
21 two ~~[five]~~ days after the notice ~~[it]~~ was sent.

22 SECTION 2. Section 31.04, Penal Code, is amended by  
23 amending Subsection (d-1) and adding Subsections (d-2) and (d-3) to  
24 read as follows:

25 (d-1) For purposes of Subsection (a)(2), the diversion of  
26 services to the benefit of a person who is not entitled to those  
27 services includes the disposition of personal property by an actor

1 having control of the property under an agreement described by  
2 Subsections (d-2)(1)-(3), if the actor disposes of the property in  
3 violation of the terms of the agreement and to the benefit of any  
4 person who is not entitled to the property.

5 (d-2) For purposes of Subsection (a)(3), the term "written  
6 rental agreement" does not include an agreement that:

7 (1) permits an individual to use personal property for  
8 personal, family, or household purposes for an initial rental  
9 period;

10 (2) is automatically renewable with each payment after  
11 the initial rental period; and

12 (3) permits the individual to become the owner of the  
13 property.

14 (d-3) For purposes of Subsection (a)(4):

15 (1) if the compensation is or was to be paid on a  
16 periodic basis, the intent to avoid payment for a service may be  
17 formed at any time during or before a pay period; and

18 (2) the partial payment of wages alone is not  
19 sufficient evidence to negate the actor's intent to avoid payment  
20 for a service.

21 SECTION 3. The change in law made by this Act applies only  
22 to an offense committed on or after the effective date of this Act.  
23 An offense committed before the effective date of this Act is  
24 governed by the law in effect on the date the offense was committed,  
25 and the former law is continued in effect for that purpose. For  
26 purposes of this section, an offense was committed before the  
27 effective date of this Act if any element of the offense occurred

1 before that date.

2 SECTION 4. This Act takes effect September 1, 2019.