

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Anderson, Collier

H.B. No. 2524

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the prosecution of the criminal offense of theft of  
3 service.

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

5 SECTION 1. Sections 31.04(b), (c), and (d), Penal Code, are  
6 amended to read as follows:

7 (b) For purposes of this section, intent to avoid payment is  
8 presumed if:

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

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

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

21 (4) the actor failed to return the property held under  
22 a rental agreement:

23 (A) within five days after receiving notice  
24 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

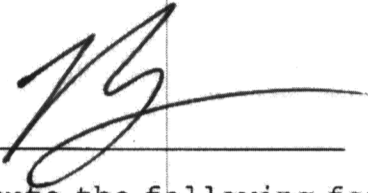
1 before that date.

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

ADOPTED

MAY 22 2019

*Leta Spaul*  
Secretary of the Senate

By: 

H.B. No. 2524

Substitute the following for H.B. No. 2524:

By: SENATOR WHITMIRE

C.S. H.B. No. 2524

*John Whitmire*

A BILL TO BE ENTITLED

AN ACT

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

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 (b), (c), (d), and (d-1) and adding Subsections (d-2), (d-3), (d-4), and (d-5) to read as follows:

(b) For purposes of this section, intent to avoid payment is presumed if any of the following occurs:

(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

1 demanding return, if the property is valued at less than \$2,500;  
2 [~~or~~]

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

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

8 (5) the actor:

9 (A) failed to return the property held under an  
10 agreement described by Subsections (d-2)(1)-(3) within five  
11 business days after receiving notice demanding return; and

12 (B) has made fewer than three complete payments  
13 under the agreement.

14 (c) For purposes of Subsections (a)(4), (b)(2), [~~and~~]  
15 (b)(4), and (b)(5), notice must [~~shall~~] be:

16 (1) [~~notice~~] in writing;

17 (2) [~~r~~] sent by:

18 (A) registered or certified mail with return  
19 receipt requested; or

20 (B) commercial delivery service; [~~or by telegram~~  
21 with report of delivery requested,] and

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

25 (d) Except as otherwise provided by this subsection, if [~~if~~]  
26 written notice is given in accordance with Subsection (c), it is  
27 presumed that the notice was received not [~~no~~] later than two [~~five~~]

1 days after the notice [it] was sent. For purposes of Subsections  
2 (b)(4)(A) and (B), if written notice is given in accordance with  
3 Subsection (c), it is presumed that the notice was received not  
4 later than five days after the notice was sent.

5 (d-1) For purposes of Subsection (a)(2), the diversion of  
6 services to the benefit of a person who is not entitled to those  
7 services includes the disposition of personal property by an actor  
8 having control of the property under an agreement described by  
9 Subsections (d-2)(1)-(3), if the actor disposes of the property in  
10 violation of the terms of the agreement and to the benefit of any  
11 person who is not entitled to the property.

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

14 (1) permits an individual to use personal property for  
15 personal, family, or household purposes for an initial rental  
16 period;

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

19 (3) permits the individual to become the owner of the  
20 property.

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

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

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

1           (d-4) A presumption established under Subsection (b)  
2 involving a defendant's failure to return property held under an  
3 agreement described by Subsections (d-2)(1)-(3) may be refuted if  
4 the defendant shows that the defendant:

5                   (1) intended to return the property; and

6                   (2) was unable to return the property.

7           (d-5) For purposes of Subsection (b)(5), "business day"  
8 means a day other than Sunday or a state or federal holiday.

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

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



ADOPTED

VV  
MAY 22 2019

*Henry Spaul*  
Secretary of the Senate



FLOOR AMENDMENT NO. 1

BY: \_\_\_\_\_

1 Amend C.S.H.B. No. 2524 (senate committee report) in SECTION  
2 1 of the bill as follows:

3 (1) In amended Section 31.04(d), Penal Code (page 2, line  
4 10), between "and (B)" and the underlined comma, insert "and  
5 (b)(5)".

6 (2) In added Section 31.04(d-3)(1), Penal Code (page 2, line  
7 32), strike "and" and substitute "[~~and~~"]".

8 (3) In added Section 31.04(d-3)(2), Penal Code (page 2, line  
9 35), between "service" and the period, insert the following:

10 ; and

11 (3) the term "service" does not include leasing  
12 personal property under an agreement described by Subsections  
13 (d-2)(1)-(3)

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 23, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service. ), **As Passed 2nd House**

**The probable fiscal impact of implementing the bill is indeterminate due to a lack of information or data available related to the type of theft of service or information specifying the type or conditions of the written rental agreements. These data are necessary to determine the number of written rental agreements that would no longer be included and the corresponding impact not including them would have on the criminal justice system.**

The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed would be modified, the amount of time until an actor is presumed to have received notification to pay would be reduced, and the definitions of *written rental agreement*, *business day*, and *service* would be clarified. Whether the bill would have a significant fiscal impact is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements. The Office of Court Administration indicates the modifications outlined in the bill's provisions will not result in a significant fiscal impact to the state court system.

**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, LBO, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 18, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (relating to the prosecution of the criminal offense of theft of service.), **Committee Report 2nd House, Substituted**

**The probable fiscal impact of implementing the bill is indeterminate due to a lack of information or data available related to the type of theft of service or information specifying the type or conditions of the written rental agreements. These data are necessary to determine the number of written rental agreements that would no longer be included and the corresponding impact not including them would have on the criminal justice system.**

The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed would be modified, the amount of time until an actor is presumed to have received notification to pay would be reduced, and the definitions of *written rental agreement* and *business day* would be clarified. Whether the bill would have a significant fiscal impact is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements. The Office of Court Administration indicates the modifications outlined in the bill's provisions will not result in a significant fiscal impact to the state court system.

**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** WP, LBO, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 16, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service.), **As Engrossed**

**The probable fiscal impact of implementing the bill is indeterminate due to a lack of information or data available related to the type of theft of service or information specifying the type or conditions of the written rental agreements. These data are necessary to determine the number of written rental agreements that would no longer be included and the corresponding impact not including them would have on the criminal justice system.**

The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced and the definition *written rental agreement* would be clarified. Whether the bill would have a significant impact fiscal impact is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements.

**Local Government Impact**

The fiscal implications of the bill cannot be determined at this time.

**Source Agencies:**

**LBB Staff:** WP, LBO, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 27, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (relating to the prosecution of the criminal offense of theft of service.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced.

The Office of Court Administration does not anticipate a significant fiscal impact to the state court system. This analysis assumes the provisions of the bill addressing sanctions for criminal offenses would not result in a significant impact on the demand for state correctional resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**     212 Office of Court Administration, Texas Judicial Council, 696  
                                 Department of Criminal Justice

**LBB Staff:** WP, LBO, LM, DGi, AF

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**April 24, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced.

The Office of Court Administration does not anticipate a significant fiscal impact to the state court system. This analysis assumes the provisions of the bill addressing sanctions for criminal offenses would not result in a significant impact on the demand for state correctional resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**    212 Office of Court Administration, Texas Judicial Council, 696  
Department of Criminal Justice

**LBB Staff:** WP, LBO, LM, DGi, AF

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 23, 2019**

**TO:** Honorable Dennis Bonnen, Speaker of the House, House of Representatives

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service. ), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed would be modified, the amount of time until an actor is presumed to have received notification to pay would be reduced, and the definitions of *written rental agreement*, *business day*, and *service* would be clarified. Under current statute, an offense under this section can be a misdemeanor or felony based on the pecuniary value of the service stolen.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years. A second degree felony is punishable by confinement in prison for a term from 2 to 20 years. A third degree felony is punishable by confinement in prison for a term from 2 to 10 years. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to an option fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Whether the bill would have a significant impact on state correctional populations is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements. In fiscal year 2018, 421 people were arrested, 99 were placed under felony community supervision, and 19 were admitted into state correctional institutions for the theft of service offenses for which changes are proposed.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 18, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (relating to the prosecution of the criminal offense of theft of service.), **Committee Report 2nd House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed would be modified, the amount of time until an actor is presumed to have received notification to pay would be reduced, and the definitions of *written rental agreement* and *business day* would be clarified. Under current statute, an offense under this section can be a misdemeanor or felony based on the pecuniary value of the service stolen. A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years. A second degree felony is punishable by confinement in prison for a term from 2 to 20 years. A third degree felony is punishable by confinement in prison for a term from 2 to 10 years. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to an option fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. Whether the bill would have a significant impact on state correctional populations is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements. In fiscal year 2018, 421 people were arrested, 99 were placed under felony community supervision, and 19 were admitted into state correctional institutions for the theft of service offenses for which changes are proposed.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**May 16, 2019**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service.), **As Engrossed**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced, and the definition of *written rental agreement* would be clarified. Under current statute, an offense under this section can be a misdemeanor or felony based on the pecuniary value of the service stolen. A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years. A second degree felony is punishable by confinement in prison for a term from 2 to 20 years. A third degree felony is punishable by confinement in prison for a term from 2 to 10 years. A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to an option fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. Whether the bill would have a significant impact on state correctional populations is indeterminate due to a lack of statewide information on the type and conditions of written rental agreements. In fiscal year 2018, 421 people were arrested, 99 were placed under felony community supervision, and 19 were admitted into state correctional institutions for the theft of service offenses for which changes are proposed.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**April 27, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (relating to the prosecution of the criminal offense of theft of service.), **Committee Report 1st House, Substituted**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to result in additional demands upon the correctional resources of the counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 421 people were arrested, 99 were placed under felony community supervision, and 19 were admitted into state correctional institutions for theft of service under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or the demand for state correctional resources.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**86TH LEGISLATIVE REGULAR SESSION**

**April 24, 2019**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE: HB2524** by Anderson, Charles "Doc" (Relating to the prosecution of the criminal offense of theft of service.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend the Penal Code as it relates to theft of service. Under the provisions of the bill, in certain circumstances, both the amount of time an actor has to return property held under a rental agreement before intent to avoid payment is presumed, as well as the amount of time until an actor is presumed to have received notification to pay, would be reduced.

A first degree felony is punishable by confinement in prison for life or a term from 5 to 99 years; a second degree felony is punishable by confinement in prison for a term from 2 to 20 years; a third degree felony is punishable by confinement in prison for a term from 2 to 10 years; and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felony level offenses are also subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to result in additional demands upon the correctional resources of the counties or of the State due to longer terms of supervision in the community or longer terms of confinement within state correctional institutions. In fiscal year 2018, 421 people were arrested, 99 were placed under felony community supervision, and 19 were admitted into state correctional institutions for theft of service under existing statute. This analysis assumes the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or the demand for state correctional resources.

**Source Agencies:**

**LBB Staff:** WP, LM, DGi