

## **BILL ANALYSIS**

H.B. 2129  
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Corrections  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The problem of retail theft creates a significant drain on both public and private resources in Texas communities. Shoplifting causes losses for business, increases prices for everyday consumers, and causes the criminal justice system at every level to expend a significant amount of resources. Education or diversion programs that allow first-time, low-risk shoplifters to participate in an educational course in lieu of arrest and prosecution have been noted to free up time and additional resources within the legal system and serve as alternative methods of rehabilitation for such offenders. These programs not only explore the reasons behind why people choose to shoplift but also identify community resources, such as job training programs or skills enhancement opportunities. H.B. 2129 seeks to address this issue by authorizing a merchant to offer a person suspected of committing or attempting to commit theft an opportunity to complete a theft education program in lieu of being reported to a law enforcement agency.

### **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**

H.B. 2129 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 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 take the following actions:

- notify the person of that opportunity;
- 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 agency if the person does not successfully complete the program;
- maintain certain records for a period of not less than two years; and
- make the records available to a district attorney, criminal district attorney, or county attorney on request.

These provisions do not preclude a peace officer, district attorney, criminal district attorney, county attorney, or judge from offering a person a theft education program under the bill's provisions.

H.B. 2129 requires such a theft education program to do the following:

- 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.

H.B. 2129 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. The bill sets out the following provisions applicable to a program provider that charges a fee for program participation:

- a requirement to develop a plan to offer discounts, alternative payment schedules, or scholarship funds to a person who the provider has verified is indigent;
- an authorization to reduce or waive the fee for an indigent person; and
- a prohibition against compensating a merchant who offers a person the opportunity to complete the program.

H.B. 2129 establishes that a person may not be required to make an admission of guilt to participate in a theft education program and exempts a person who successfully completes such a program from any additional civil penalties under any other law. The bill grants a person who offers or provides a theft education program immunity from criminal or civil liability for failure to notify a law enforcement agency of an applicable suspected theft or attempted theft.

#### **EFFECTIVE DATE**

September 1, 2023.