

## **BILL ANALYSIS**

Senate Research Center

H.B. 4779  
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Criminal Justice  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, the offenses of organized retail theft and property theft overlap in statute, which can result in defendants being charged with organized retail theft when property theft is more appropriate. Even in cases of minimal shoplifting, police can arrest an actor for either offense. In most cases, organized retail theft is less likely to result in an expunction. This issue was raised by a professor at Southern Methodist University who specializes in statistics and a defense attorney who has witnessed the unintended consequences of the current law.

Current law that constitutes the offense of organized retail theft should be revised to ensure that minimal shoplifting is not prosecuted as such.

H.B. 4779 amends the Penal Code to revise the offense of organized retail theft, which currently applies to a person who intentionally conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of stolen retail merchandise or merchandise explicitly represented to the person as being stolen retail merchandise, as follows:

- by replacing the condition that the actor engages in the conduct intentionally with the condition that the actor engages in the conduct with the intent to support, facilitate, or engage in the acquisition of stolen retail merchandise and the redistribution of that merchandise into the supply chain; and
- by making the offense applicable only if the total value of merchandise involved is \$100 or more.

Accordingly, the bill removes the misdemeanor penalty range for the offense, which applies only to offenses where the total value of merchandise is less than \$100.

H.B. 4779 amends current law relating to the prosecution of the criminal offense of organized retail theft.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 31.16, Penal Code, as follows:

Sec. 31.16. ORGANIZED RETAIL THEFT. (a) Redesignates existing Subdivision (b) as Subdivision (a). Provides that a person commits an offense if, with the intent to support, facilitate, or engage in the acquisition of stolen retail merchandise and the redistribution of that merchandise into the supply chain, the person conducts, promotes, or facilitates an activity in which the person receives, possesses, conceals, stores, barter, sells, or disposes of a total value of not less than \$100 of certain merchandise. Makes nonsubstantive changes.

(b) Redesignates existing Subsection (c) as Subsection (b). Deletes existing text providing that an offense under this section is a class C misdemeanor if the total value of the merchandise involved in the activity is less than \$100: and makes nonsubstantive changes.

(c) Redesignates existing Subsection (d) as Subsection (c). Makes conforming changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2023.