

BILL ANALYSIS

H.B. 4779
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Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

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. H.B. 4779 seeks to address this issue by revising the conduct that constitutes the offense of organized retail theft to ensure that minimal shoplifting is not prosecuted as such.

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. 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 not less than \$2,500.

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 \$2,500. The bill applies only to an offense committed on or after the bill's effective date and provides for the continuation of the law in effect before the bill's effective date for purposes of an offense, or any element thereof, that occurred before that date.

EFFECTIVE DATE

September 1, 2023.