

1-1 By: Burns, Frazier, Thierry H.B. No. 2129
1-2 (Senate Sponsor - Hinojosa)
1-3 (In the Senate - Received from the House May 8, 2023;
1-4 May 9, 2023, read first time and referred to Committee on
1-5 Jurisprudence; May 21, 2023, reported adversely, with favorable
1-6 Committee Substitute by the following vote: Yeas 5, Nays 0;
1-7 May 21, 2023, sent to printer.)

1-8 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-9				
1-10	<u>Hughes</u>	X		
1-11	<u>Johnson</u>	X		
1-12	<u>Creighton</u>	X		
1-13	<u>Hinojosa</u>	X		
1-14	<u>Middleton</u>	X		

1-15 COMMITTEE SUBSTITUTE FOR H.B. No. 2129 By: Hughes

1-16 A BILL TO BE ENTITLED
1-17 AN ACT

1-18 relating to a merchant allowing a person suspected of committing or
1-19 attempting to commit theft to complete a theft education program.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. This Act may be cited as the Kevin Kolbye Act.

1-22 SECTION 2. Section 124.001, Civil Practice and Remedies
1-23 Code, is amended to read as follows:

1-24 Sec. 124.001. SUSPECTED THEFT OF PROPERTY OR ATTEMPTED
1-25 THEFT OF PROPERTY [DETENTION]. (a) A person who reasonably
1-26 believes that another has stolen or is attempting to steal property
1-27 is privileged to detain that person in a reasonable manner and for a
1-28 reasonable time to investigate ownership of the property.

1-29 (b) A person who is in the business of selling goods or
1-30 services as a merchant is not precluded from offering a person who
1-31 is suspected of stealing or attempting to steal property from the
1-32 merchant an opportunity to complete a theft education program under
1-33 Section 124.002 to deter theft and address criminal behavior
1-34 instead of reporting the suspected offense to a law enforcement
1-35 agency.

1-36 (c) A merchant who offers a person an opportunity to
1-37 complete a theft education program shall:

1-38 (1) notify the person of that opportunity;

1-39 (2) inform the person of the civil and criminal
1-40 remedies available to the merchant and the state, including
1-41 informing the person that the merchant retains the right to report
1-42 the suspected offense to a law enforcement agency if the person does
1-43 not successfully complete the program; and

1-44 (3) maintain records for a period of not less than two
1-45 years of:

1-46 (A) any criteria used by the merchant in
1-47 determining whether to offer a person the opportunity to complete a
1-48 theft education program;

1-49 (B) the terms of each offer made; and

1-50 (C) the name of each person to whom the merchant
1-51 made an offer.

1-52 (d) A merchant shall make records maintained under
1-53 Subsection (c)(3) available to a district attorney, criminal
1-54 district attorney, or county attorney on request.

1-55 (e) Nothing in this section precludes a peace officer,
1-56 district attorney, criminal district attorney, county attorney, or
1-57 judge from offering a person a theft education program under
1-58 Section 124.002 in compliance with this chapter.

1-59 SECTION 3. Chapter 124, Civil Practice and Remedies Code,
1-60 is amended by adding Sections 124.002 and 124.003 to read as

2-1 follows:

2-2 Sec. 124.002. THEFT EDUCATION PROGRAM. (a) A theft

2-3 education program for a person who is suspected of stealing or

2-4 attempting to steal property under Section 124.001 must:

2-5 (1) address the type of alleged criminal offense;

2-6 (2) seek to modify the person's behavioral

2-7 decision-making process;

2-8 (3) engage the person with interactive exercises

2-9 designed to instill appropriate societal behavior; and

2-10 (4) promote accountability and reconciliation between

2-11 the person and the merchant.

2-12 (b) A provider of a theft education program may not

2-13 discriminate against a person who is otherwise eligible to

2-14 participate in the program based on:

2-15 (1) the person's race, color, religion, sex, familial

2-16 status, or national origin; or

2-17 (2) the person's ability to pay.

2-18 (c) A program provider that charges a fee for participation

2-19 in a theft education program:

2-20 (1) shall develop a plan to offer discounts,

2-21 alternative payment schedules, or scholarship funds to a person who

2-22 the provider has verified is indigent;

2-23 (2) may reduce or waive the fee for the program based

2-24 on the ability to pay of a person described by Subdivision (1); and

2-25 (3) may not compensate a merchant who offers a person

2-26 the opportunity to complete the program.

2-27 (d) A person may not be required to make an admission of

2-28 guilt to participate in a theft education program.

2-29 (e) Notwithstanding any other law, a person who

2-30 successfully completes a theft education program under this section

2-31 may not be subject to any additional civil penalties under any other

2-32 provision of law.

2-33 Sec. 124.003. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY.

2-34 A person who offers or provides a theft education program in

2-35 compliance with this chapter is not criminally or civilly liable

2-36 for failure to notify a law enforcement agency of the suspected

2-37 theft or attempted theft.

2-38 SECTION 4. This Act takes effect September 1, 2023.

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