

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Shaheen

H.B. No. 1833

A BILL TO BE ENTITLED

1 AN ACT

2 relating to increasing the criminal penalty for the offense of  
3 criminal mischief involving a public power supply.

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

5 SECTION 1. Section 28.03(b), Penal Code, is amended to read  
6 as follows:

7 (b) Except as provided by Subsections (f) and (h), an  
8 offense under this section is:

9 (1) a Class C misdemeanor if:

10 (A) the amount of pecuniary loss is less than  
11 \$100; or

12 (B) except as provided in Subdivision (3)(A) or  
13 (3)(B), it causes substantial inconvenience to others;

14 (2) a Class B misdemeanor if the amount of pecuniary  
15 loss is \$100 or more but less than \$750;

16 (3) a Class A misdemeanor if:

17 (A) the amount of pecuniary loss is \$750 or more  
18 but less than \$2,500; or

19 (B) the actor causes in whole or in part  
20 impairment or interruption of any public water supply, or causes to  
21 be diverted in whole, in part, or in any manner, including  
22 installation or removal of any device for any such purpose, any  
23 public water supply, regardless of the amount of the pecuniary  
24 loss;

1           (4) a state jail felony if the amount of pecuniary loss  
2 is:

3                   (A) \$2,500 or more but less than \$30,000;

4                   (B) less than \$2,500, if the property damaged or  
5 destroyed is a habitation and if the damage or destruction is caused  
6 by a firearm or explosive weapon;

7                   (C) less than \$2,500, if the property was a fence  
8 used for the production or containment of:

9                           (i) cattle, bison, horses, sheep, swine,  
10 goats, exotic livestock, or exotic poultry; or

11                           (ii) game animals as that term is defined by  
12 Section 63.001, Parks and Wildlife Code; or

13                   (D) less than \$30,000 and the actor:

14                           (i) causes wholly or partly impairment or  
15 interruption of property used for flood control purposes or a dam or  
16 of public communications, public transportation, public gas [~~or~~  
17 ~~power~~] supply, or other public service; or

18                           (ii) causes to be diverted wholly, partly,  
19 or in any manner, including installation or removal of any device  
20 for any such purpose, any public communications or public gas [~~or~~  
21 ~~power~~] supply;

22           (5) a felony of the third degree if:

23                   (A) the amount of the pecuniary loss is \$30,000  
24 or more but less than \$150,000;

25                   (B) the actor, by discharging a firearm or other  
26 weapon or by any other means, causes the death of one or more head of  
27 cattle or bison or one or more horses; [~~or~~]

1 (C) the actor causes wholly or partly impairment  
2 or interruption of access to an automated teller machine,  
3 regardless of the amount of the pecuniary loss; or

4 (D) the amount of pecuniary loss is less than  
5 \$150,000 and the actor:

6 (i) causes wholly or partly impairment or  
7 interruption of property used for public power supply; or

8 (ii) causes to be diverted wholly, partly,  
9 or in any manner, including installation or removal of any device  
10 for any such purpose, any public power supply;

11 (6) a felony of the second degree if the amount of  
12 pecuniary loss is \$150,000 or more but less than \$300,000; or

13 (7) a felony of the first degree if the amount of  
14 pecuniary loss is \$300,000 or more.

15 SECTION 2. The change in law made by this Act applies only  
16 to an offense committed on or after the effective date of this Act.  
17 An offense committed before the effective date of this Act is  
18 governed by the law in effect on the date the offense was committed,  
19 and the former law is continued in effect for that purpose. For  
20 purposes of this section, an offense was committed before the  
21 effective date of this Act if any element of the offense occurred  
22 before that date.

23 SECTION 3. This Act takes effect September 1, 2023.

By: Phil King

Substitute the following for H.B. No. 1833:

By: Peter P. Stone

ADOPTED

MAY 23 2023

H. B. No. 1833  
*Lately Shaw*  
Secretary of the Senate

C.S. H.B. No. 1833

A BILL TO BE ENTITLED

1

AN ACT

2 relating to increasing the criminal penalty for the offense of  
3 criminal mischief involving a critical infrastructure facility or  
4 public power supply.

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

6 SECTION 1. Section 28.03, Penal Code, is amended by  
7 amending Subsection (b) and adding Subsection (l) to read as  
8 follows:

9 (b) Except as provided by Subsections (f), ~~and~~ (h), and  
10 (l), an offense under this section is:

11 (1) a Class C misdemeanor if:

12 (A) the amount of pecuniary loss is less than  
13 \$100; or

14 (B) except as provided in Subdivision (3)(A) or  
15 (3)(B), it causes substantial inconvenience to others;

16 (2) a Class B misdemeanor if the amount of pecuniary  
17 loss is \$100 or more but less than \$750;

18 (3) a Class A misdemeanor if:

19 (A) the amount of pecuniary loss is \$750 or more  
20 but less than \$2,500; or

21 (B) the actor causes in whole or in part  
22 impairment or interruption of any public water supply, or causes to  
23 be diverted in whole, in part, or in any manner, including  
24 installation or removal of any device for any such purpose, any

1 public water supply, regardless of the amount of the pecuniary  
2 loss;

3 (4) a state jail felony if the amount of pecuniary loss  
4 is:

5 (A) \$2,500 or more but less than \$30,000;

6 (B) less than \$2,500, if the property damaged or  
7 destroyed is a habitation and if the damage or destruction is caused  
8 by a firearm or explosive weapon;

9 (C) less than \$2,500, if the property was a fence  
10 used for the production or containment of:

11 (i) cattle, bison, horses, sheep, swine,  
12 goats, exotic livestock, or exotic poultry; or

13 (ii) game animals as that term is defined by  
14 Section 63.001, Parks and Wildlife Code; or

15 (D) less than \$30,000 and the actor:

16 (i) causes wholly or partly impairment or  
17 interruption of property used for flood control purposes or a dam or  
18 of public communications, public transportation, public gas [~~or~~  
19 ~~power~~] supply, or other public service; or

20 (ii) causes to be diverted wholly, partly,  
21 or in any manner, including installation or removal of any device  
22 for any such purpose, any public communications or public gas [~~or~~  
23 ~~power~~] supply;

24 (5) a felony of the third degree if:

25 (A) the amount of the pecuniary loss is \$30,000  
26 or more but less than \$150,000;

27 (B) the actor, by discharging a firearm or other

1 weapon or by any other means, causes the death of one or more head of  
2 cattle or bison or one or more horses; ~~[or]~~

3 (C) the actor causes wholly or partly impairment  
4 or interruption of access to an automated teller machine,  
5 regardless of the amount of the pecuniary loss; or

6 (D) the amount of pecuniary loss is less than  
7 \$150,000 and the actor:

8 (i) causes wholly or partly impairment of a  
9 critical infrastructure facility or interruption of the operations  
10 of a critical infrastructure facility; or

11 (ii) causes to be diverted wholly, partly,  
12 or in any manner, including installation or removal of any device  
13 for any such purpose, any public power supply;

14 (6) a felony of the second degree if the amount of  
15 pecuniary loss is \$150,000 or more but less than \$300,000; or

16 (7) a felony of the first degree if the amount of  
17 pecuniary loss is \$300,000 or more.

18 (1) An offense under this section is:

19 (1) a felony of the second degree if:

20 (A) the tangible property damaged, destroyed, or  
21 tampered with is a critical infrastructure facility; and

22 (B) the actor causes an extended power outage; or

23 (2) a felony of the first degree if:

24 (A) the tangible property damaged, destroyed, or  
25 tampered with is a critical infrastructure facility;

26 (B) the actor causes an extended power outage;

27 and

1                   (C) either:

2                               (i) the amount of pecuniary damage to the  
3 critical infrastructure facility is \$100,000 or more; or

4                               (ii) the actor uses a firearm, drone, cyber  
5 attack, or explosive weapon in the commission of the offense.

6           SECTION 2. Section 28.03(g), Penal Code, is amended by  
7 adding Subdivisions (10), (11), (12), and (13) to read as follows:

8                   (10) "Critical infrastructure facility" means an  
9 electrical power generating facility, substation, switching  
10 station, electrical control center, or electrical transmission or  
11 distribution facility.

12                   (11) "Cyber attack" means an attempt to damage,  
13 disrupt, or gain unauthorized access to a computer, computer  
14 network, or computer system.

15                   (12) "Drone" has the meaning assigned by Article 2.33,  
16 Code of Criminal Procedure, as added by Chapter 1011 (H.B. 1758),  
17 Acts of the 87th Legislature, Regular Session, 2021.

18                   (13) "Extended power outage" means a power outage:

19                               (A) lasting for two hours or more; or

20                               (B) affecting 1,000 or more meters used to  
21 measure electric energy consumption by retail customers.

22           SECTION 3. The change in law made by this Act applies only  
23 to an offense committed on or after the effective date of this Act.  
24 An offense committed before the effective date of this Act is  
25 governed by the law in effect on the date the offense was committed,  
26 and the former law is continued in effect for that purpose. For  
27 purposes of this section, an offense was committed before the

1 effective date of this Act if any element of the offense occurred  
2 before that date.

3 SECTION 4. This Act takes effect September 1, 2023.



ADOPTED

MAY 23 2023

*Lately Spaw*  
Secretary of the Senate

BY:

*Phil King*

FLOOR AMENDMENT NO. 1

1 Amend C.S.H.B. 1833 (senate committee report) as follows:

2 (1) Strike the recital to SECTION 1 of the bill, amending  
3 Section 28.03, Penal Code (page 1, lines 23 through 25), and  
4 substitute the following:

5 SECTION 1. Section 28.03(b), Penal Code, is amended to read  
6 as follows:

7 (2) In SECTION 1 of the bill, in amended Section 28.03(b),  
8 Penal Code (page 1), strike lines 26 and 27, and substitute the  
9 following:

10 (b) Except as provided by Subsections (f) and (h), an offense  
11 under this section is:

12 (3) In SECTION 1 of the bill, strike added Section  
13 28.03(b)(5)(D)(i), Penal Code (page 2, lines 16 through 18), and  
14 substitute the following:

15 (i) causes wholly or partly impairment or  
16 interruption of property used for public power supply; or

17 (4) In SECTION 1 of the bill, strike added Section 28.03(1),  
18 Penal Code (page 2, lines 26 through 40).

19 (5) Strike SECTION 2 of the bill, adding Sections  
20 28.03(g)(10), (11), (12), and (13), Penal Code (page 2, lines 41  
21 through 56), and renumber subsequent SECTIONS of the bill  
22 accordingly.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 24, 2023**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a critical infrastructure facility or public power supply.), **As Passed 2nd House**

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

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a public power supply when the amount of pecuniary loss is less than \$30,000. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Local Government Impact**

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

**LBB Staff:** JMc, DDel, LBO, ESch, DGI

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

May 21, 2023

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

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a critical infrastructure facility or public power supply.), **Committee Report 2nd House, Substituted**

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

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a critical infrastructure facility or public power supply when the amount of pecuniary loss is less than \$30,000. The bill would increase the penalty for the offense of criminal mischief to a first or second degree felony in cases of certain conduct involving a critical infrastructure facility depending on the nature of the conduct and the amount of pecuniary damage.

While it is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant, it would be dependent on the prevalence of conduct that would constitute an offense under the bill.

**Local Government Impact**

While it is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant, it would be dependent on the prevalence of conduct that would constitute an offense under the bill.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

**LBB Staff:** JMc, DDel, LBO, ESch, DGI

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**May 18, 2023**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a public power supply.), **As Engrossed**

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

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a public power supply when the amount of pecuniary loss is less than \$30,000. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Local Government Impact**

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

**LBB Staff:** JMc, DDel, LBO, DGI

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION**

**April 10, 2023**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a public power supply.), **As Introduced**

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

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a public power supply when the amount of pecuniary loss is less than \$30,000. It is assumed that any fiscal impact and any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Local Government Impact**

It is assumed that any fiscal impact to units of local government associated with enforcement, prosecution, supervision, or confinement would not be significant.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 304 Comptroller of Public Accounts

**LBB Staff:** JMc, DDel, LBO, DGI

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**88TH LEGISLATIVE REGULAR SESSION**

**May 21, 2023**

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

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a critical infrastructure facility or public power supply.), **Committee Report 2nd House, Substituted**

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a critical infrastructure facility or public power supply when the amount of pecuniary damage is less than \$30,000. The bill would increase the penalty for the offense of criminal mischief to a first or second degree felony in cases of certain conduct involving a critical infrastructure facility depending on the nature of the conduct and the amount of pecuniary damage.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2022, there were 77 individuals arrested, 7 individuals placed on adult community supervision, no individuals placed on juvenile community supervision, and 3 individuals admitted into an adult state correctional institution for the state jail felony offense of the criminal mischief involving certain public services or utilities with a pecuniary loss of less than \$30,000; however, the number of cases related to a public power supply is unknown. In fiscal year 2022, there were 4 individuals admitted into a juvenile state correctional institution for felony offenses of criminal mischief; however, the specific circumstances of the criminal mischief are unknown. The number of cases in fiscal year 2022 of criminal mischief related to a critical infrastructure facility is unknown.

While the impact on state correctional populations or on the demand for state correctional resources cannot be determined due to the lack of data necessary to identify the prevalence of conduct that would constitute an offense under the bill, it is assumed that any impact would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, DDel, LBO, ESch, DGI

**LEGISLATIVE BUDGET BOARD****Austin, Texas****CRIMINAL JUSTICE IMPACT STATEMENT****88TH LEGISLATIVE REGULAR SESSION****May 18, 2023****TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice**FROM:** Jerry McGinty, Director, Legislative Budget Board**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a public power supply.), **As Engrossed**

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a public power supply when the amount of pecuniary loss is less than \$30,000.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2022, there were 77 individuals arrested, 7 individuals placed on adult community supervision, no individuals placed on juvenile community supervision, and 3 individuals admitted into an adult state correctional institution for the state jail felony offense of the criminal mischief involving certain public services or utilities with a pecuniary loss of less than \$30,000. It is unknown how many of these cases specifically involved a public power supply. In fiscal year 2022, there were 4 individuals admitted into a juvenile state correctional institution for felony offenses of criminal mischief, however the specific circumstances of the criminal mischief are unknown.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source****Agencies:****LBB Staff:** JMc, DDel, LBO, DGI

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

**CRIMINAL JUSTICE IMPACT STATEMENT**  
**88TH LEGISLATIVE REGULAR SESSION**

**April 10, 2023**

**TO:** Honorable Joe Moody, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB1833** by Shaheen (Relating to increasing the criminal penalty for the offense of criminal mischief involving a public power supply.), **As Introduced**

The bill would increase the penalty for the offense of criminal mischief from a state jail felony to a third degree felony in cases of certain conduct involving a public power supply when the amount of pecuniary loss is less than \$30,000.

Increasing the penalty for an existing offense may result in additional demands upon state correctional resources due to a possible increase in the number of individuals confined and in the length of stay for individuals sentenced to a term of confinement.

In fiscal year 2022, there were 77 individuals arrested, 7 individuals placed on adult community supervision, no individuals placed on juvenile community supervision, and 3 individuals admitted into an adult state correctional institution for the state jail felony offense of the criminal mischief involving certain public services or utilities with a pecuniary loss of less than \$30,000. It is unknown how many of these cases specifically involved a public power supply. In fiscal year 2022, there were 4 individuals admitted into a juvenile state correctional institution for felony offenses of criminal mischief, however the specific circumstances of the criminal mischief are unknown.

It is assumed that any impact on state correctional populations or on the demand for state correctional resources would not be significant.

**Source**

**Agencies:**

**LBB Staff:** JMc, DDel, LBO, DGI