

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Burns, Thierry, et al.

H.B. No. 2129

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

(b) 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 under Section 124.002 to deter theft and address criminal behavior instead of reporting the suspected offense to a law enforcement agency.

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

(1) notify the person of that opportunity;

(2) 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; and

(3) maintain records for a period of not less than two years of:

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

(B) the terms of each offer made; and

(C) the name of each person to whom the merchant made an offer.

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

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

SECTION 2. Chapter 124, Civil Practice and Remedies Code, is amended by adding Sections 124.002 and 124.003 to read as follows:

Sec. 124.002. THEFT EDUCATION PROGRAM. (a) A theft education program for a person who is suspected of stealing or attempting to steal property under Section 124.001 must:

(1) address the type of alleged criminal offense;

(2) seek to modify the person's behavioral decision-making process;

(3) engage the person with interactive exercises

1 designed to instill appropriate societal behavior; and

2 (4) promote accountability and reconciliation between  
3 the person and the merchant.

4 (b) A provider of a theft education program may not  
5 discriminate against a person who is otherwise eligible to  
6 participate in the program based on:

7 (1) the person's race, color, religion, sex, familial  
8 status, or national origin; or

9 (2) the person's ability to pay.

10 (c) A program provider that charges a fee for participation  
11 in a theft education program:

12 (1) shall develop a plan to offer discounts,  
13 alternative payment schedules, or scholarship funds to a person who  
14 the provider has verified is indigent;

15 (2) may reduce or waive the fee for the program based  
16 on the ability to pay of a person described by Subdivision (1); and

17 (3) may not compensate a merchant who offers a person  
18 the opportunity to complete the program.

19 (d) A person may not be required to make an admission of  
20 guilt to participate in a theft education program.

21 (e) Notwithstanding any other law, a person who  
22 successfully completes a theft education program under this section  
23 may not be subject to any additional civil penalties under any other  
24 provision of law.

25 Sec. 124.003. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY.

26 A person who offers or provides a theft education program in  
27 compliance with this chapter is not criminally or civilly liable

H.B. No. 2129

1 for failure to notify a law enforcement agency of the suspected  
2 theft or attempted theft.

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

ADOPTED

MAY 24 2023

Latey  
Secretary of the Senate

By: J-J. Hing

Substitute the following for H.B. No. 2129:

By: Bryan Hughes

H.B. No. 2129

C.S. H.B. No. 2129

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a merchant allowing a person suspected of committing or  
3 attempting to commit theft to complete a theft education program.

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

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

6 SECTION 2. Section 124.001, Civil Practice and Remedies  
7 Code, is amended to read as follows:

8 Sec. 124.001. SUSPECTED THEFT OF PROPERTY OR ATTEMPTED  
9 THEFT OF PROPERTY [~~DETENTION~~]. (a) A person who reasonably  
10 believes that another has stolen or is attempting to steal property  
11 is privileged to detain that person in a reasonable manner and for a  
12 reasonable time to investigate ownership of the property.

13 (b) A person who is in the business of selling goods or  
14 services as a merchant is not precluded from offering a person who  
15 is suspected of stealing or attempting to steal property from the  
16 merchant an opportunity to complete a theft education program under  
17 Section 124.002 to deter theft and address criminal behavior  
18 instead of reporting the suspected offense to a law enforcement  
19 agency.

20 (c) A merchant who offers a person an opportunity to  
21 complete a theft education program shall:

22 (1) notify the person of that opportunity;

23 (2) inform the person of the civil and criminal  
24 remedies available to the merchant and the state, including

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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; and

(3) maintain records for a period of not less than two years of:

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

(B) the terms of each offer made; and

(C) the name of each person to whom the merchant made an offer.

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

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

SECTION 3. Chapter 124, Civil Practice and Remedies Code, is amended by adding Sections 124.002 and 124.003 to read as follows:

Sec. 124.002. THEFT EDUCATION PROGRAM. (a) A theft education program for a person who is suspected of stealing or attempting to steal property under Section 124.001 must:

(1) address the type of alleged criminal offense;

(2) seek to modify the person's behavioral decision-making process;

1           (3) engage the person with interactive exercises  
2 designed to instill appropriate societal behavior; and  
3           (4) promote accountability and reconciliation between  
4 the person and the merchant.

5           (b) A provider of a theft education program may not  
6 discriminate against a person who is otherwise eligible to  
7 participate in the program based on:

8                 (1) the person's race, color, religion, sex, familial  
9 status, or national origin; or

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11           (c) A program provider that charges a fee for participation  
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15 the provider has verified is indigent;

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19 the opportunity to complete the program.

20           (d) A person may not be required to make an admission of  
21 guilt to participate in a theft education program.

22           (e) Notwithstanding any other law, a person who  
23 successfully completes a theft education program under this section  
24 may not be subject to any additional civil penalties under any other  
25 provision of law.

26           Sec. 124.003. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY.  
27 A person who offers or provides a theft education program in

1 compliance with this chapter is not criminally or civilly liable  
2 for failure to notify a law enforcement agency of the suspected  
3 theft or attempted theft.

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



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

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

**May 25, 2023**

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

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

**IN RE: HB2129** by Burns (Relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.), **As Passed 2nd House**

<b>No significant fiscal implication to the State is anticipated.</b>
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The bill would establish that a merchant is not precluded from offering a person suspected of stealing or attempting to steal from the merchant an opportunity to complete a theft education program instead of reporting the person to a law enforcement agency. The bill would establish requirements related to such a program.

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**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

**LBB Staff:** JMc, SD, KDw, ESch, DDel, LBO

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

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

**May 21, 2023**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on Jurisprudence

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

**IN RE: HB2129** by Burns (relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.), **Committee Report 2nd House, Substituted**

<b>No significant fiscal implication to the State is anticipated.</b>
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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

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

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 16, 2023**

**TO:** Honorable Bryan Hughes, Chair, Senate Committee on Jurisprudence

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

**IN RE: HB2129** by Burns (Relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.), **As Engrossed**

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

The bill would establish that a merchant is not precluded from offering a person suspected of stealing or attempting to steal from the merchant an opportunity to complete a theft education program instead of reporting the person to a law enforcement agency. The bill would establish requirements related to such a program.

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**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

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

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**April 16, 2023**

**TO:** Honorable Abel Herrero, Chair, House Committee on Corrections

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

**IN RE: HB2129** by Burns (Relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.), **As Introduced**

<p><b>No significant fiscal implication to the State is anticipated.</b></p>
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The bill would establish that a merchant is not precluded from offering a person suspected of stealing or attempting to steal from the merchant an opportunity to complete a theft education program instead of reporting the person to a law enforcement agency. The bill would establish requirements related to such a program.

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**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council

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