

## **BILL ANALYSIS**

C.S.S.B. 1281  
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Criminal Jurisprudence  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The bill sponsor has informed the committee that mail theft has become an epidemic in Texas and across the country. The U.S. Department of the Treasury's Financial Crimes Enforcement Network has reported that mail-theft-related check fraud amounted to \$688 million in a six-month period in 2023. Although mail fraud is often a federal issue, the Texas Legislature created a criminal offense to address mail theft in 2019, giving prosecutors another avenue for combating this crime when the federal government cannot or will not pursue charges. However, the bill sponsor has informed the committee that the 2019 legislation was targeted toward mail and package theft from home residences and should be expanded to also target check fraud through mail to crack down on this rapidly increasing crime. Furthermore, the bill sponsor has informed the committee that there has also been an increase in the theft of master or universal mail keys, also known as "arrow keys," which allow for access to a block of mailboxes, often found in residential neighborhoods, apartments, or businesses. The rising theft of arrow keys and even robberies of mail carriers has resulted in high-volume mail theft; according to the U.S. Postal Service, there were 38,500 incidents in 2022 and over 25,000 in just the first half of 2023 regarding theft from mail receptacles. C.S.S.B. 1281 seeks to provide law enforcement with a more targeted tool to combat these crimes by expanding the offense of mail theft, by setting out related penalties, and by creating a new offense for unlawful conduct involving a mail receptacle key or lock.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes 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**

C.S.S.B. 1281 amends the Penal Code to expand the conduct that constitutes mail theft as follows:

- removing the condition that the mail be appropriated from another person's mailbox or premises; and
- including the intent to steal a negotiable instrument, defined by reference to Uniform Commercial Code-Negotiable Instruments, among the intent with which the commission of the requisite conduct constitutes the offense.

Accordingly, the bill clarifies that the definition of "mail" for purposes of the offense includes a sealed article that is delivered by a common carrier or delivery service and that is in transit and specifies that the existing definition of "mail" as a sealed article that is delivered by a

common carrier or delivery service and is not yet received by the addressee is a sealed article that has been delivered.

C.S.S.B. 1281 establishes the following with respect to the offense:

- if an actor possesses mail from five or more addressees, there is a rebuttable presumption that actor appropriated the mail without the effective consent of the applicable addressee and with the intent to deprive the addressee of the mail; and
- if an actor possesses mail containing a combined total of five or more negotiable instruments, there is a rebuttable presumption that the actor:
  - appropriated the mail without the effective consent of the applicable addressee and with the intent to steal the negotiable instruments; and
  - committed the offense with the intent to facilitate an offense under Penal Code provisions relating to fraud.

These presumptions expressly do not apply to a business or other commercial entity or governmental agency that is engaged in a business activity or governmental function that does not violate a penal law of Texas.

With respect to mail theft involving the appropriation of mail containing a negotiable instrument in which the actor committed the offense with the intent to facilitate an offense under Penal Code provisions relating to fraud, the bill sets out the following penalties:

- a state jail felony for the appropriation of five or fewer negotiable instruments;
- a third degree felony for the appropriation of more than 5 but fewer than 10 negotiable instruments;
- a second degree felony for the appropriation of at least 10 but fewer than 50 negotiable instruments; and
- a first degree felony for the appropriation of 50 or more negotiable instruments.

The bill increases the penalty for such a state jail felony, third degree felony, or second degree felony offense to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense the actor knew or had reason to believe that an addressee from whom the actor appropriated a negotiable instrument was a disabled individual or an elderly individual.

C.S.S.B. 1281 creates the third degree felony offense of unlawful conduct involving a mail receptacle key or lock for a person who, with the intent to harm or defraud another or to deprive another of that person's property, obtains, possesses, duplicates, transfers, or uses a key or lock adopted by a postal service for any box or other authorized receptacle for the deposit or delivery of mail. The bill enhances the penalty to a second degree felony for a subsequent conviction of the offense. For these purposes, the bill defines "mail" by reference to provisions relating to the offense of mail theft and "postal service" as the U.S. Postal Service or a contractor of the U.S. Postal Service or any commercial courier that delivers mail.

C.S.S.B. 1281 applies only to an offense committed on or after the bill's effective date. An offense committed before that date is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For these purposes, an offense was committed before the bill's effective date if any element of the offense occurred before that date.

### **EFFECTIVE DATE**

September 1, 2025.

### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1281 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions that were not in the engrossed establishing the following:

- if an actor possesses mail from five or more addressees, there is a rebuttable presumption that actor appropriated the mail without the effective consent of the applicable addressee and with the intent to deprive the addressee of the mail;
- if an actor possesses mail containing a combined total of five or more negotiable instruments, there is a rebuttable presumption that the actor:
  - appropriated the mail without the effective consent of the applicable addressee and with the intent to steal the negotiable instruments; and
  - committed the offense with the intent to facilitate an offense under Penal Code provisions relating to fraud; and
- such presumptions expressly do not apply to a business or other commercial entity or governmental agency that is engaged in a business activity or governmental function that does not violate a penal law of Texas.