

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

05-30-15

Date

Honorable Dan Patrick
President of the Senate

Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 1396 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Konni Burton

Konni Burton

Whitmore

John Whitmore

Joan Huffman

Chd Perry

Charles Perry

J. J. Hinojosa

On the part of the Senate

Juan Hinojosa

Paul Workman

Paul Workman

Joe Moody

Lyle Larson

Lyle Larson

Abel Herrera

Abel Herrera

Matt Krause

On the part of the House

Matt Krause

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain criminal offenses, punishments, and
3 procedures; the construction of certain statutes and rules that
4 create or define criminal offenses and penalties; a review of
5 certain penal laws of this state.

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

7 SECTION 1. Article 18.02(a), Code of Criminal Procedure, is
8 amended to read as follows:

9 (a) A search warrant may be issued to search for and seize:

10 (1) property acquired by theft or in any other manner
11 which makes its acquisition a penal offense;

12 (2) property specially designed, made, or adapted for
13 or commonly used in the commission of an offense;

14 (3) arms and munitions kept or prepared for the
15 purposes of insurrection or riot;

16 (4) weapons prohibited by the Penal Code;

17 (5) gambling devices or equipment, altered gambling
18 equipment, or gambling paraphernalia;

19 (6) obscene materials kept or prepared for commercial
20 distribution or exhibition, subject to the additional rules set
21 forth by law;

22 (7) a drug, controlled substance, immediate
23 precursor, chemical precursor, or other controlled substance
24 property, including an apparatus or paraphernalia kept, prepared,

1 or manufactured in violation of the laws of this state;

2 (8) any property the possession of which is prohibited
3 by law;

4 (9) implements or instruments used in the commission
5 of a crime;

6 (10) property or items, except the personal writings
7 by the accused, constituting evidence of an offense or constituting
8 evidence tending to show that a particular person committed an
9 offense;

10 (11) persons;

11 (12) contraband subject to forfeiture under Chapter 59
12 of this code; ~~or~~

13 (13) electronic customer data held in electronic
14 storage, including the contents of and records and other
15 information related to a wire communication or electronic
16 communication held in electronic storage; or

17 (14) a cellular telephone or other wireless
18 communications device, subject to Article 18.0215.

19 SECTION 2. Chapter 18, Code of Criminal Procedure, is
20 amended by adding Article 18.0215 to read as follows:

21 Art. 18.0215. ACCESS TO CELLULAR TELEPHONE OR OTHER
22 WIRELESS COMMUNICATIONS DEVICE. (a) A peace officer may not search
23 a person's cellular telephone or other wireless communications
24 device, pursuant to a lawful arrest of the person without obtaining
25 a warrant under this article.

26 (b) A warrant under this article may be issued only by a
27 judge in the same judicial district as the site of:

1 (1) the law enforcement agency that employs the peace
2 officer, if the cellular telephone or other wireless communications
3 device is in the officer's possession; or

4 (2) the likely location of the telephone or device.

5 (c) A judge may issue a warrant under this article only on
6 the application of a peace officer. An application must be written
7 and signed and sworn to or affirmed before the judge. The
8 application must:

9 (1) state the name, department, agency, and address of
10 the applicant;

11 (2) identify the cellular telephone or other wireless
12 communications device to be searched;

13 (3) state the name of the owner or possessor of the
14 telephone or device to be searched;

15 (4) state the judicial district in which:

16 (A) the law enforcement agency that employs the
17 peace officer is located, if the telephone or device is in the
18 officer's possession; or

19 (B) the telephone or device is likely to be
20 located; and

21 (5) state the facts and circumstances that provide the
22 applicant with probable cause to believe that:

23 (A) criminal activity has been, is, or will be
24 committed; and

25 (B) searching the telephone or device is likely
26 to produce evidence in the investigation of the criminal activity
27 described in Paragraph (A).

1 (d) Notwithstanding any other law, a peace officer may
2 search a cellular telephone or other wireless communications device
3 without a warrant if:

4 (1) the owner or possessor of the telephone or device
5 consents to the search;

6 (2) the telephone or device is reported stolen by the
7 owner or possessor; or

8 (3) the officer reasonably believes that:

9 (A) the telephone or device is in the possession
10 of a fugitive from justice for whom an arrest warrant has been
11 issued for committing a felony offense; or

12 (B) there exists an immediate life-threatening
13 situation, as defined by Section 1, Article 18.20.

14 (e) A peace officer must apply for a warrant to search a
15 cellular telephone or other wireless communications device as soon
16 as practicable after a search is conducted under Subsection
17 (d)(3)(A) or (B). If the judge finds that the applicable situation
18 under Subsection (d)(3)(A) or (B) did not occur and declines to
19 issue the warrant, any evidence obtained is not admissible in a
20 criminal action.

21 SECTION 3. Article 32A.01, Code of Criminal Procedure, is
22 amended to read as follows:

23 Art. 32A.01. TRIAL PRIORITIES. (a) Insofar as is
24 practicable, the trial of a criminal action shall be given
25 preference over trials of civil cases, and the trial of a criminal
26 action against a defendant who is detained in jail pending trial of
27 the action shall be given preference over trials of other criminal

1 actions not described by Subsection (b).

2 (b) Unless extraordinary circumstances require otherwise,
3 the trial of a criminal action in which the alleged victim is
4 younger than 14 years of age shall be given preference over other
5 matters before the court, whether civil or criminal.

6 SECTION 4. Subchapter C, Chapter 311, Government Code, is
7 amended by adding Section 311.035 to read as follows:

8 Sec. 311.035. CONSTRUCTION OF STATUTE OR RULE INVOLVING
9 CRIMINAL OFFENSE OR PENALTY. (a) In this section, "actor" and
10 "element of offense" have the meanings assigned by Section 1.07,
11 Penal Code.

12 (b) Except as provided by Subsection (c), a statute or rule
13 that creates or defines a criminal offense or penalty shall be
14 construed in favor of the actor if any part of the statute or rule is
15 ambiguous on its face or as applied to the case, including:

16 (1) an element of offense; or

17 (2) the penalty to be imposed.

18 (c) Subsection (b) does not apply to a criminal offense or
19 penalty under the Penal Code or under the Texas Controlled
20 Substances Act.

21 (d) The ambiguity of a part of a statute or rule to which
22 this section applies is a matter of law to be resolved by the judge.

23 SECTION 5. Sections 28.03(b), (f), (h), and (j), Penal
24 Code, are amended to read as follows:

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

27 (1) a Class C misdemeanor if:

1 (A) the amount of pecuniary loss is less than
2 \$100 [~~\$50~~]; or

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

5 (2) a Class B misdemeanor if the amount of pecuniary
6 loss is \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];

7 (3) a Class A misdemeanor if:

8 (A) the amount of pecuniary loss is \$750 [~~\$500~~]
9 or more but less than \$2,500 [~~\$1,500~~]; or

10 (B) the actor causes in whole or in part
11 impairment or interruption of any public water supply, or causes to
12 be diverted in whole, in part, or in any manner, including
13 installation or removal of any device for any such purpose, any
14 public water supply, regardless of the amount of the pecuniary
15 loss;

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

18 (A) \$2,500 [~~\$1,500~~] or more but less than \$30,000
19 [~~\$20,000~~];

20 (B) less than \$2,500 [~~\$1,500~~], if the property
21 damaged or destroyed is a habitation and if the damage or
22 destruction is caused by a firearm or explosive weapon;

23 (C) less than \$2,500 [~~\$1,500~~], if the property
24 was a fence used for the production or containment of:

25 (i) cattle, bison, horses, sheep, swine,
26 goats, exotic livestock, or exotic poultry; or

27 (ii) game animals as that term is defined by

1 Section 63.001, Parks and Wildlife Code; or

2 (D) less than \$30,000 [~~\$20,000~~] and the actor
3 causes wholly or partly impairment or interruption of public
4 communications, public transportation, public gas or power supply,
5 or other public service, or causes to be diverted wholly, partly, or
6 in any manner, including installation or removal of any device for
7 any such purpose, any public communications or public gas or power
8 supply;

9 (5) a felony of the third degree if the amount of the
10 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000
11 [~~\$100,000~~];

12 (6) a felony of the second degree if the amount of
13 pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than
14 \$300,000 [~~\$200,000~~]; or

15 (7) a felony of the first degree if the amount of
16 pecuniary loss is \$300,000 [~~\$200,000~~] or more.

17 (f) An offense under this section is a state jail felony if
18 the damage or destruction is inflicted on a place of worship or
19 human burial, a public monument, or a community center that
20 provides medical, social, or educational programs and the amount of
21 the pecuniary loss to real property or to tangible personal
22 property is \$750 or more but less than \$30,000 [~~\$20,000~~].

23 (h) An offense under this section is a state jail felony if
24 the amount of the pecuniary loss to real property or to tangible
25 personal property is \$750 [~~\$1,500~~] or more but less than \$30,000
26 [~~\$20,000~~] and the damage or destruction is inflicted on a public or
27 private elementary school, secondary school, or institution of

1 higher education.

2 (j) Notwithstanding Subsection (b), an offense under this
3 section is a felony of the third degree if:

4 (1) the tangible property damaged, destroyed, or
5 tampered with is transportation communications equipment or a
6 transportation communications device; and

7 (2) the amount of the pecuniary loss to the tangible
8 property is less than \$150,000 [~~\$100,000~~].

9 SECTION 6. Section 28.06(d), Penal Code, is amended to read
10 as follows:

11 (d) If the amount of pecuniary loss cannot be ascertained by
12 the criteria set forth in Subsections (a) through (c), the amount of
13 loss is deemed to be greater than \$750 [~~\$500~~] but less than \$2,500
14 [~~\$1,500~~].

15 SECTION 7. Section 28.07(e), Penal Code, is amended to read
16 as follows:

17 (e) An offense under Subsection (b)(2)(B), (b)(2)(C), or
18 (b)(2)(D) is a Class C misdemeanor unless the person causes
19 pecuniary loss of \$100 or more, in which event the offense is:

20 (1) a Class B misdemeanor if the amount of pecuniary
21 loss is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

22 (2) a Class A misdemeanor if the amount of pecuniary
23 loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

24 (3) a state jail felony if the amount of pecuniary loss
25 is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

26 (4) a felony of the third degree if the amount of the
27 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000

1 [~~\$100,000~~];

2 (5) a felony of the second degree if the amount of
3 pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than
4 \$300,000 [~~\$200,000~~]; or

5 (6) a felony of the first degree if the amount of the
6 pecuniary loss is \$300,000 [~~\$200,000~~] or more.

7 SECTION 8. Sections 28.08(b) and (d), Penal Code, are
8 amended to read as follows:

9 (b) Except as provided by Subsection (d), an offense under
10 this section is:

11 (1) a Class C misdemeanor if the amount of pecuniary
12 loss is less than \$100;

13 (2) a Class B misdemeanor if the amount of pecuniary
14 loss is \$100 or more but less than \$750 [~~\$500~~];

15 (3) [~~(2)~~] a Class A misdemeanor if the amount of
16 pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

17 (4) [~~(3)~~] a state jail felony if the amount of
18 pecuniary loss is \$2,500 [~~\$1,500~~] or more but less than \$30,000
19 [~~\$20,000~~];

20 (5) [~~(4)~~] a felony of the third degree if the amount of
21 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000
22 [~~\$100,000~~];

23 (6) [~~(5)~~] a felony of the second degree if the amount
24 of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than
25 \$300,000 [~~\$200,000~~]; or

26 (7) [~~(6)~~] a felony of the first degree if the amount of
27 pecuniary loss is \$300,000 [~~\$200,000~~] or more.

1 (d) An offense under this section is a state jail felony if:

2 (1) the marking is made on a school, an institution of
3 higher education, a place of worship or human burial, a public
4 monument, or a community center that provides medical, social, or
5 educational programs; and

6 (2) the amount of the pecuniary loss to real property
7 or to tangible personal property is \$750 or more but less than
8 \$30,000 [~~\$20,000~~].

9 SECTION 9. Article 14.06(d), Code of Criminal Procedure, is
10 amended to read as follows:

11 (d) Subsection (c) applies only to a person charged with
12 committing an offense under:

13 (1) Section 481.121, Health and Safety Code, if the
14 offense is punishable under Subsection (b)(1) or (2) of that
15 section;

16 (1-a) Section 481.1161, Health and Safety Code, if the
17 offense is punishable under Subsection (b)(1) or (2) of that
18 section;

19 (2) Section 28.03, Penal Code, if the offense is
20 punishable under Subsection (b)(2) of that section;

21 (3) Section 28.08, Penal Code, if the offense is
22 punishable under Subsection (b)(2) or (3) [~~(b)(1)~~] of that section;

23 (4) Section 31.03, Penal Code, if the offense is
24 punishable under Subsection (e)(2)(A) of that section;

25 (5) Section 31.04, Penal Code, if the offense is
26 punishable under Subsection (e)(2) of that section;

27 (6) Section 38.114, Penal Code, if the offense is

1 punishable as a Class B misdemeanor; or

2 (7) Section 521.457, Transportation Code.

3 SECTION 10. Section 31.03(e), Penal Code, is amended to
4 read as follows:

5 (e) Except as provided by Subsection (f), an offense under
6 this section is:

7 (1) a Class C misdemeanor if the value of the property
8 stolen is less than \$100[+]

9 [~~(A) \$50, or~~

10 [~~(B) \$20 and the defendant obtained the property~~
11 ~~by issuing or passing a check or similar sight order in a manner~~
12 ~~described by Section 31.06];~~

13 (2) a Class B misdemeanor if:

14 (A) the value of the property stolen is \$100[+

15 [~~(i) \$50] or more but less than \$750 [~~\$500,~~~~

16 ~~or~~

17 [~~(ii) \$20 or more but less than \$500 and the~~
18 ~~defendant obtained the property by issuing or passing a check or~~
19 ~~similar sight order in a manner described by Section 31.06];~~

20 (B) the value of the property stolen is less than
21 \$100[+

22 [~~(i) \$50] and the defendant has previously
23 been convicted of any grade of theft; or~~

24 [~~(ii) \$20, the defendant has previously~~
25 ~~been convicted of any grade of theft, and the defendant obtained the~~
26 ~~property by issuing or passing a check or similar sight order in a~~
27 ~~manner described by Section 31.06; or]~~

1 (C) the property stolen is a driver's license,
2 commercial driver's license, or personal identification
3 certificate issued by this state or another state;

4 (3) a Class A misdemeanor if the value of the property
5 stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

6 (4) a state jail felony if:

7 (A) the value of the property stolen is \$2,500
8 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~], or the property is
9 less than 10 head of sheep, swine, or goats or any part thereof
10 under the value of \$30,000 [~~\$20,000~~];

11 (B) regardless of value, the property is stolen
12 from the person of another or from a human corpse or grave,
13 including property that is a military grave marker;

14 (C) the property stolen is a firearm, as defined
15 by Section 46.01;

16 (D) the value of the property stolen is less than
17 \$2,500 [~~\$1,500~~] and the defendant has been previously convicted two
18 or more times of any grade of theft;

19 (E) the property stolen is an official ballot or
20 official carrier envelope for an election; or

21 (F) the value of the property stolen is less than
22 \$20,000 and the property stolen is:

- 23 (i) aluminum;
- 24 (ii) bronze;
- 25 (iii) copper; or
- 26 (iv) brass;

27 (5) a felony of the third degree if the value of the

1 property stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000
2 [~~\$100,000~~], or the property is:

3 (A) cattle, horses, or exotic livestock or exotic
4 fowl as defined by Section 142.001, Agriculture Code, stolen during
5 a single transaction and having an aggregate value of less than
6 \$150,000 [~~\$100,000~~]; or

7 (B) 10 or more head of sheep, swine, or goats
8 stolen during a single transaction and having an aggregate value of
9 less than \$150,000 [~~\$100,000~~];

10 (6) a felony of the second degree if:

11 (A) the value of the property stolen is \$150,000
12 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

13 (B) the value of the property stolen is less than
14 \$300,000 [~~\$200,000~~] and the property stolen is an automated teller
15 machine or the contents or components of an automated teller
16 machine; or

17 (7) a felony of the first degree if the value of the
18 property stolen is \$300,000 [~~\$200,000~~] or more.

19 SECTION 11. Sections 31.04(b) and (e), Penal Code, are
20 amended to read as follows:

21 (b) For purposes of this section, intent to avoid payment is
22 presumed if:

23 (1) the actor absconded without paying for the service
24 or expressly refused to pay for the service in circumstances where
25 payment is ordinarily made immediately upon rendering of the
26 service, as in hotels, campgrounds, recreational vehicle parks,
27 restaurants, and comparable establishments;

1 (2) the actor failed to make payment under a service
2 agreement within 10 days after receiving notice demanding payment;

3 (3) the actor returns property held under a rental
4 agreement after the expiration of the rental agreement and fails to
5 pay the applicable rental charge for the property within 10 days
6 after the date on which the actor received notice demanding
7 payment; or

8 (4) the actor failed to return the property held under
9 a rental agreement:

10 (A) within five days after receiving notice
11 demanding return, if the property is valued at less than \$2,500
12 [~~\$1,500~~]; or

13 (B) within three days after receiving notice
14 demanding return, if the property is valued at \$2,500 [~~\$1,500~~] or
15 more.

16 (e) An offense under this section is:

17 (1) a Class C misdemeanor if the value of the service
18 stolen is less than \$100 [~~\$20~~];

19 (2) a Class B misdemeanor if the value of the service
20 stolen is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

21 (3) a Class A misdemeanor if the value of the service
22 stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

23 (4) a state jail felony if the value of the service
24 stolen is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

25 (5) a felony of the third degree if the value of the
26 service stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000
27 [~~\$100,000~~];

1 (6) a felony of the second degree if the value of the
2 service stolen is \$150,000 [~~\$100,000~~] or more but less than
3 \$300,000 [~~\$200,000~~]; or

4 (7) a felony of the first degree if the value of the
5 service stolen is \$300,000 [~~\$200,000~~] or more.

6 SECTION 12. Section 31.08(c), Penal Code, is amended to
7 read as follows:

8 (c) If property or service has value that cannot be
9 reasonably ascertained by the criteria set forth in Subsections (a)
10 and (b), the property or service is deemed to have a value of \$750
11 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~].

12 SECTION 13. Sections 31.16(c) and (d), Penal Code, are
13 amended to read as follows:

14 (c) An offense under this section is:

15 (1) a Class C misdemeanor if the total value of the
16 merchandise involved in the activity is less than \$100;

17 (2) a Class B misdemeanor if the total value of the
18 merchandise involved in the activity is \$100 or more but less than
19 \$750 [~~\$50~~];

20 (3) [~~(2)~~] a Class A misdemeanor if the total value of
21 the merchandise involved in the activity is \$750 [~~\$50~~] or more but
22 less than \$2,500 [~~\$500~~];

23 (4) [~~(3)~~] a state jail felony if the total value of the
24 merchandise involved in the activity is \$2,500 [~~\$500~~] or more but
25 less than \$30,000 [~~\$1,500~~];

26 (5) [~~(4)~~] a felony of the third degree if the total
27 value of the merchandise involved in the activity is \$30,000

1 [~~\$1,500~~] or more but less than \$150,000 [~~\$20,000~~];

2 (6) [~~(5)~~] a felony of the second degree if the total
3 value of the merchandise involved in the activity is \$150,000
4 [~~\$20,000~~] or more but less than \$300,000 [~~\$100,000~~]; or

5 (7) [~~(6)~~] a felony of the first degree if the total
6 value of the merchandise involved in the activity is \$300,000
7 [~~\$100,000~~] or more.

8 (d) An offense described for purposes of punishment by
9 Subsections (c)(1)-(6) [~~(c)(1)-(5)~~] is increased to the next higher
10 category of offense if it is shown on the trial of the offense that:

11 (1) the person organized, supervised, financed, or
12 managed one or more other persons engaged in an activity described
13 by Subsection (b); or

14 (2) during the commission of the offense, a person
15 engaged in an activity described by Subsection (b) intentionally,
16 knowingly, or recklessly:

17 (A) caused a fire exit alarm to sound or
18 otherwise become activated;

19 (B) deactivated or otherwise prevented a fire
20 exit alarm or retail theft detector from sounding; or

21 (C) used a shielding or deactivation instrument
22 to prevent or attempt to prevent detection of the offense by a
23 retail theft detector.

24 SECTION 14. Section 32.02(c), Penal Code, is amended to
25 read as follows:

26 (c) If property or service has value that cannot be
27 reasonably ascertained by the criteria set forth in Subsections (a)

1 and (b), the property or service is deemed to have a value of \$750
2 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~].

3 SECTION 15. Section 32.23(e), Penal Code, is amended to
4 read as follows:

5 (e) An offense under this section is a:

6 (1) Class C misdemeanor if the retail value of the item
7 or service is less than \$100 [~~\$20~~];

8 (2) Class B misdemeanor if the retail value of the item
9 or service is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

10 (3) Class A misdemeanor if the retail value of the item
11 or service is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

12 (4) state jail felony if the retail value of the item
13 or service is \$2,500 [~~\$1,500~~] or more but less than \$30,000
14 [~~\$20,000~~];

15 (5) felony of the third degree if the retail value of
16 the item or service is \$30,000 [~~\$20,000~~] or more but less than
17 \$150,000 [~~\$100,000~~];

18 (6) felony of the second degree if the retail value of
19 the item or service is \$150,000 [~~\$100,000~~] or more but less than
20 \$300,000 [~~\$200,000~~]; or

21 (7) felony of the first degree if the retail value of
22 the item or service is \$300,000 [~~\$200,000~~] or more.

23 SECTION 16. Section 32.32(c), Penal Code, is amended to
24 read as follows:

25 (c) An offense under this section is:

26 (1) a Class C misdemeanor if the value of the property
27 or the amount of credit is less than \$100 [~~\$50~~];

1 (2) a Class B misdemeanor if the value of the property
2 or the amount of credit is \$100 [~~\$50~~] or more but less than \$750
3 [~~\$500~~];

4 (3) a Class A misdemeanor if the value of the property
5 or the amount of credit is \$750 [~~\$500~~] or more but less than \$2,500
6 [~~\$1,500~~];

7 (4) a state jail felony if the value of the property or
8 the amount of credit is \$2,500 [~~\$1,500~~] or more but less than
9 \$30,000 [~~\$20,000~~];

10 (5) a felony of the third degree if the value of the
11 property or the amount of credit is \$30,000 [~~\$20,000~~] or more but
12 less than \$150,000 [~~\$100,000~~];

13 (6) a felony of the second degree if the value of the
14 property or the amount of credit is \$150,000 [~~\$100,000~~] or more but
15 less than \$300,000 [~~\$200,000~~]; or

16 (7) a felony of the first degree if the value of the
17 property or the amount of credit is \$300,000 [~~\$200,000~~] or more.

18 SECTION 17. Sections 32.33(d) and (e), Penal Code, are
19 amended to read as follows:

20 (d) An offense under Subsection (b) is a:

21 (1) Class C misdemeanor if the value of the property
22 destroyed, removed, concealed, encumbered, or otherwise harmed or
23 reduced in value is less than \$100 [~~\$20~~];

24 (2) Class B misdemeanor if the value of the property
25 destroyed, removed, concealed, encumbered, or otherwise harmed or
26 reduced in value is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

27 (3) Class A misdemeanor if the value of the property

1 destroyed, removed, concealed, encumbered, or otherwise harmed or
2 reduced in value is \$750 [~~\$500~~] or more but less than \$2,500
3 [~~\$1,500~~];

4 (4) state jail felony if the value of the property
5 destroyed, removed, concealed, encumbered, or otherwise harmed or
6 reduced in value is \$2,500 [~~\$1,500~~] or more but less than \$30,000
7 [~~\$20,000~~];

8 (5) felony of the third degree if the value of the
9 property destroyed, removed, concealed, encumbered, or otherwise
10 harmed or reduced in value is \$30,000 [~~\$20,000~~] or more but less
11 than \$150,000 [~~\$100,000~~];

12 (6) felony of the second degree if the value of the
13 property destroyed, removed, concealed, encumbered, or otherwise
14 harmed or reduced in value is \$150,000 [~~\$100,000~~] or more but less
15 than \$300,000 [~~\$200,000~~]; or

16 (7) felony of the first degree if the value of the
17 property destroyed, removed, concealed, encumbered, or otherwise
18 harmed or reduced in value is \$300,000 [~~\$200,000~~] or more.

19 (e) A person who is a debtor under a security agreement, and
20 who does not have a right to sell or dispose of the secured property
21 or is required to account to the secured party for the proceeds of a
22 permitted sale or disposition, commits an offense if the person
23 sells or otherwise disposes of the secured property, or does not
24 account to the secured party for the proceeds of a sale or other
25 disposition as required, with intent to appropriate (as defined in
26 Chapter 31) the proceeds or value of the secured property. A person
27 is presumed to have intended to appropriate proceeds if the person

1 does not deliver the proceeds to the secured party or account to the
2 secured party for the proceeds before the 11th day after the day
3 that the secured party makes a lawful demand for the proceeds or
4 account. An offense under this subsection is:

5 (1) a Class C misdemeanor if the proceeds obtained
6 from the sale or other disposition are money or goods having a value
7 of less than \$100 [~~\$20~~];

8 (2) a Class B misdemeanor if the proceeds obtained
9 from the sale or other disposition are money or goods having a value
10 of \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

11 (3) a Class A misdemeanor if the proceeds obtained
12 from the sale or other disposition are money or goods having a value
13 of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

14 (4) a state jail felony if the proceeds obtained from
15 the sale or other disposition are money or goods having a value of
16 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

17 (5) a felony of the third degree if the proceeds
18 obtained from the sale or other disposition are money or goods
19 having a value of \$30,000 [~~\$20,000~~] or more but less than \$150,000
20 [~~\$100,000~~];

21 (6) a felony of the second degree if the proceeds
22 obtained from the sale or other disposition are money or goods
23 having a value of \$150,000 [~~\$100,000~~] or more but less than \$300,000
24 [~~\$200,000~~]; or

25 (7) a felony of the first degree if the proceeds
26 obtained from the sale or other disposition are money or goods
27 having a value of \$300,000 [~~\$200,000~~] or more.

1 SECTION 18. Section 32.34(f), Penal Code, is amended to
2 read as follows:

3 (f) An offense under Subsection (b)(1), (b)(2), or (b)(3)
4 is:

5 (1) a state jail felony if the value of the motor
6 vehicle is less than \$30,000 [~~\$20,000~~]; [~~or~~]

7 (2) a felony of the third degree if the value of the
8 motor vehicle is \$30,000 [~~\$20,000~~] or more but less than \$150,000;

9 (3) a felony of the second degree if the value of the
10 motor vehicle is \$150,000 or more but less than \$300,000; or

11 (4) a felony of the first degree if the value of the
12 motor vehicle is \$300,000 or more.

13 SECTION 19. Section 32.35(e), Penal Code, is amended to
14 read as follows:

15 (e) An offense under this section is a:

16 (1) Class C misdemeanor if the amount of the record of
17 a sale is less than \$100 [~~\$20~~];

18 (2) Class B misdemeanor if the amount of the record of
19 a sale is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

20 (3) Class A misdemeanor if the amount of the record of
21 a sale is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

22 (4) state jail felony if the amount of the record of a
23 sale is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

24 (5) felony of the third degree if the amount of the
25 record of a sale is \$30,000 [~~\$20,000~~] or more but less than \$150,000
26 [~~\$100,000~~];

27 (6) felony of the second degree if the amount of the

1 record of a sale is \$150,000 [~~\$100,000~~] or more but less than
2 \$300,000 [~~\$200,000~~]; or

3 (7) felony of the first degree if the amount of the
4 record of a sale is \$300,000 [~~\$200,000~~] or more.

5 SECTION 20. Section 32.441(e), Penal Code, is amended to
6 read as follows:

7 (e) An offense under this section is a:

8 (1) Class C misdemeanor if the value of the benefit is
9 less than \$100 [~~\$20~~];

10 (2) Class B misdemeanor if the value of the benefit is
11 \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

12 (3) Class A misdemeanor if the value of the benefit is
13 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

14 (4) state jail felony if the value of the benefit is
15 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

16 (5) felony of the third degree if the value of the
17 benefit is \$30,000 [~~\$20,000~~] or more but less than \$150,000
18 [~~\$100,000~~];

19 (6) felony of the second degree if the value of the
20 benefit is \$150,000 [~~\$100,000~~] or more but less than \$300,000
21 [~~\$200,000~~]; or

22 (7) felony of the first degree if the value of the
23 benefit is \$300,000 [~~\$200,000~~] or more.

24 SECTION 21. Section 32.45(c), Penal Code, is amended to
25 read as follows:

26 (c) An offense under this section is:

27 (1) a Class C misdemeanor if the value of the property

1 misapplied is less than \$100 [~~\$20~~];

2 (2) a Class B misdemeanor if the value of the property
3 misapplied is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

4 (3) a Class A misdemeanor if the value of the property
5 misapplied is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

6 (4) a state jail felony if the value of the property
7 misapplied is \$2,500 [~~\$1,500~~] or more but less than \$30,000
8 [~~\$20,000~~];

9 (5) a felony of the third degree if the value of the
10 property misapplied is \$30,000 [~~\$20,000~~] or more but less than
11 \$150,000 [~~\$100,000~~];

12 (6) a felony of the second degree if the value of the
13 property misapplied is \$150,000 [~~\$100,000~~] or more but less than
14 \$300,000 [~~\$200,000~~]; or

15 (7) a felony of the first degree if the value of the
16 property misapplied is \$300,000 [~~\$200,000~~] or more.

17 SECTION 22. Section 32.46(b), Penal Code, is amended to
18 read as follows:

19 (b) An offense under Subsection (a)(1) is a:

20 (1) Class C misdemeanor if the value of the property,
21 service, or pecuniary interest is less than \$100 [~~\$20~~];

22 (2) Class B misdemeanor if the value of the property,
23 service, or pecuniary interest is \$100 [~~\$20~~] or more but less than
24 \$750 [~~\$500~~];

25 (3) Class A misdemeanor if the value of the property,
26 service, or pecuniary interest is \$750 [~~\$500~~] or more but less than
27 \$2,500 [~~\$1,500~~];

1 (4) state jail felony if the value of the property,
2 service, or pecuniary interest is \$2,500 [~~\$1,500~~] or more but less
3 than \$30,000 [~~\$20,000~~];

4 (5) felony of the third degree if the value of the
5 property, service, or pecuniary interest is \$30,000 [~~\$20,000~~] or
6 more but less than \$150,000 [~~\$100,000~~];

7 (6) felony of the second degree if the value of the
8 property, service, or pecuniary interest is \$150,000 [~~\$100,000~~] or
9 more but less than \$300,000 [~~\$200,000~~]; or

10 (7) felony of the first degree if the value of the
11 property, service, or pecuniary interest is \$300,000 [~~\$200,000~~] or
12 more.

13 SECTION 23. Section 33.02(b-2), Penal Code, is amended to
14 read as follows:

15 (b-2) An offense under Subsection (b-1) is:

16 (1) a Class C misdemeanor if the aggregate amount
17 involved is less than \$100;

18 (2) a Class B misdemeanor if the aggregate amount
19 involved is \$100 or more but less than \$750;

20 (3) a Class A misdemeanor if the aggregate amount
21 involved is \$750 or more but less than \$2,500;

22 (4) [~~(1)~~] a state jail felony if the aggregate amount
23 involved is \$2,500 or more but less than \$30,000 [~~\$20,000~~];

24 (5) [~~(2)~~] a felony of the third degree if the
25 aggregate amount involved is \$30,000 [~~\$20,000~~] or more but less
26 than \$150,000 [~~\$100,000~~];

27 (6) [~~(3)~~] a felony of the second degree if:

1 (A) the aggregate amount involved is \$150,000
2 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~];

3 (B) the aggregate amount involved is any amount
4 less than \$300,000 [~~\$200,000~~] and the computer, computer network,
5 or computer system is owned by the government or a critical
6 infrastructure facility; or

7 (C) the actor obtains the identifying
8 information of another by accessing only one computer, computer
9 network, or computer system; or

10 (7) [~~(4)~~] a felony of the first degree if:

11 (A) the aggregate amount involved is \$300,000
12 [~~\$200,000~~] or more; or

13 (B) the actor obtains the identifying
14 information of another by accessing more than one computer,
15 computer network, or computer system.

16 SECTION 24. Section 34.02(e), Penal Code, is amended to
17 read as follows:

18 (e) An offense under this section is:

19 (1) a state jail felony if the value of the funds is
20 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

21 (2) a felony of the third degree if the value of the
22 funds is \$30,000 [~~\$20,000~~] or more but less than \$150,000
23 [~~\$100,000~~];

24 (3) a felony of the second degree if the value of the
25 funds is \$150,000 [~~\$100,000~~] or more but less than \$300,000
26 [~~\$200,000~~]; or

27 (4) a felony of the first degree if the value of the

1 funds is \$300,000 [~~\$200,000~~] or more.

2 SECTION 25. Section 35.02(c), Penal Code, is amended to
3 read as follows:

4 (c) An offense under Subsection (a) or (b) is:

5 (1) a Class C misdemeanor if the value of the claim is
6 less than \$100 [~~\$50~~];

7 (2) a Class B misdemeanor if the value of the claim is
8 \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];

9 (3) a Class A misdemeanor if the value of the claim is
10 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

11 (4) a state jail felony if the value of the claim is
12 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

13 (5) a felony of the third degree if the value of the
14 claim is \$30,000 [~~\$20,000~~] or more but less than \$150,000
15 [~~\$100,000~~];

16 (6) a felony of the second degree if the value of the
17 claim is \$150,000 [~~\$100,000~~] or more but less than \$300,000
18 [~~\$200,000~~]; or

19 (7) a felony of the first degree if:

20 (A) the value of the claim is \$300,000 [~~\$200,000~~]
21 or more; or

22 (B) an act committed in connection with the
23 commission of the offense places a person at risk of death or
24 serious bodily injury.

25 SECTION 26. Section 35.025(b), Penal Code, is amended to
26 read as follows:

27 (b) If goods or services that are the subject of a claim

1 cannot be reasonably ascertained under Subsection (a), the goods or
2 services are considered to have a value of \$750 [~~\$500~~] or more but
3 less than \$2,500 [~~\$1,500~~].

4 SECTION 27. Section 35A.02(b), Penal Code, is amended to
5 read as follows:

6 (b) An offense under this section is:

7 (1) a Class C misdemeanor if the amount of any payment
8 or the value of any monetary or in-kind benefit provided or claim
9 for payment made under the Medicaid program, directly or
10 indirectly, as a result of the conduct is less than \$100 [~~\$50~~];

11 (2) a Class B misdemeanor if the amount of any payment
12 or the value of any monetary or in-kind benefit provided or claim
13 for payment made under the Medicaid program, directly or
14 indirectly, as a result of the conduct is \$100 [~~\$50~~] or more but
15 less than \$750 [~~\$500~~];

16 (3) a Class A misdemeanor if the amount of any payment
17 or the value of any monetary or in-kind benefit provided or claim
18 for payment made under the Medicaid program, directly or
19 indirectly, as a result of the conduct is \$750 [~~\$500~~] or more but
20 less than \$2,500 [~~\$1,500~~];

21 (4) a state jail felony if:

22 (A) the amount of any payment or the value of any
23 monetary or in-kind benefit provided or claim for payment made
24 under the Medicaid program, directly or indirectly, as a result of
25 the conduct is \$2,500 [~~\$1,500~~] or more but less than \$30,000
26 [~~\$20,000~~];

27 (B) the offense is committed under Subsection

1 (a)(11); or

2 (C) it is shown on the trial of the offense that
3 the amount of the payment or value of the benefit described by this
4 subsection cannot be reasonably ascertained;

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

6 (A) the amount of any payment or the value of any
7 monetary or in-kind benefit provided or claim for payment made
8 under the Medicaid program, directly or indirectly, as a result of
9 the conduct is \$30,000 [~~\$20,000~~] or more but less than \$150,000
10 [~~\$100,000~~]; or

11 (B) it is shown on the trial of the offense that
12 the defendant submitted more than 25 but fewer than 50 fraudulent
13 claims under the Medicaid program and the submission of each claim
14 constitutes conduct prohibited by Subsection (a);

15 (6) a felony of the second degree if:

16 (A) the amount of any payment or the value of any
17 monetary or in-kind benefit provided or claim for payment made
18 under the Medicaid program, directly or indirectly, as a result of
19 the conduct is \$150,000 [~~\$100,000~~] or more but less than \$300,000
20 [~~\$200,000~~]; or

21 (B) it is shown on the trial of the offense that
22 the defendant submitted 50 or more fraudulent claims under the
23 Medicaid program and the submission of each claim constitutes
24 conduct prohibited by Subsection (a); or

25 (7) a felony of the first degree if the amount of any
26 payment or the value of any monetary or in-kind benefit provided or
27 claim for payment made under the Medicaid program, directly or

1 indirectly, as a result of the conduct is \$300,000 [~~\$200,000~~] or
2 more.

3 SECTION 28. Section 39.02(c), Penal Code, is amended to
4 read as follows:

5 (c) An offense under Subsection (a)(2) is:

6 (1) a Class C misdemeanor if the value of the use of
7 the thing misused is less than \$100 [~~\$20~~];

8 (2) a Class B misdemeanor if the value of the use of
9 the thing misused is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

10 (3) a Class A misdemeanor if the value of the use of
11 the thing misused is \$750 [~~\$500~~] or more but less than \$2,500
12 [~~\$1,500~~];

13 (4) a state jail felony if the value of the use of the
14 thing misused is \$2,500 [~~\$1,500~~] or more but less than \$30,000
15 [~~\$20,000~~];

16 (5) a felony of the third degree if the value of the
17 use of the thing misused is \$30,000 [~~\$20,000~~] or more but less than
18 \$150,000 [~~\$100,000~~];

19 (6) a felony of the second degree if the value of the
20 use of the thing misused is \$150,000 [~~\$100,000~~] or more but less
21 than \$300,000 [~~\$200,000~~]; or

22 (7) a felony of the first degree if the value of the
23 use of the thing misused is \$300,000 [~~\$200,000~~] or more.

24 SECTION 29. (a) A commission is created to study and review
25 all penal laws of this state other than criminal offenses:

26 (1) under the Penal Code;

27 (2) under Chapter 481, Health and Safety Code; or

1 (3) related to the operation of a motor vehicle.

2 (b) The commission shall:

3 (1) evaluate all laws described by Subsection (a) of
4 this section; and

5 (2) make recommendations to the legislature regarding
6 the repeal of laws that are identified as being unnecessary,
7 unclear, duplicative, overly broad, or otherwise insufficient to
8 serve the intended purpose of the law.

9 (c) The commission is composed of nine members appointed as
10 follows:

11 (1) two members appointed by the governor;

12 (2) two members appointed by the lieutenant governor;

13 (3) two members appointed by the speaker of the house
14 of representatives;

15 (4) two members appointed by the chief justice of the
16 Supreme Court of Texas; and

17 (5) one member appointed by the presiding judge of the
18 Texas Court of Criminal Appeals.

19 (d) The officials making appointments to the commission
20 under Subsection (c) of this section shall ensure that the
21 membership of the commission includes representatives of all areas
22 of the criminal justice system, including prosecutors, defense
23 attorneys, judges, legal scholars, and relevant business
24 interests.

25 (e) The governor shall designate one member of the
26 commission to serve as the presiding officer of the commission.

27 (f) A member of the commission is not entitled to

1 compensation or reimbursement of expenses.

2 (g) The commission shall meet at the call of the presiding
3 officer.

4 (h) Not later than November 1, 2016, the commission shall
5 report the commission's findings and recommendations to the
6 governor, the lieutenant governor, the speaker of the house of
7 representatives, the Supreme Court of Texas, the Texas Court of
8 Criminal Appeals, and the standing committees of the house of
9 representatives and the senate with primary jurisdiction over
10 criminal justice. The commission shall include in its
11 recommendations any specific statutes that the commission
12 recommends revising or repealing.

13 (i) Not later than November 1, 2015, the governor, the
14 lieutenant governor, the speaker of the house of representatives,
15 the chief justice of the Supreme Court of Texas, and the presiding
16 judge of the Texas Court of Criminal Appeals shall appoint the
17 members of the commission created under this section.

18 (j) The commission is abolished and this section expires
19 December 31, 2016.

20 SECTION 30. (a) The changes in law made by this Act to the
21 Penal Code apply only to an offense committed on or after the
22 effective date of this Act. An offense committed before the
23 effective date of this Act is governed by the law in effect on the
24 date the offense was committed, and the former law is continued in
25 effect for that purpose. For purposes of this subsection, an
26 offense was committed before the effective date of this Act if any
27 element of the offense occurred before that date.

1 (b) The change in law made by Section 311.035, Government
2 Code, as added by this Act, applies only to a criminal proceeding
3 that commences on or after the effective date of this Act. A
4 criminal proceeding that commences before the effective date of
5 this Act is governed by the law in effect on the date the proceeding
6 commenced, and the former law is continued in effect for that
7 purpose.

8 SECTION 31. This Act takes effect September 1, 2015.

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No equivalent provision.

SENATE VERSION (IE)

SECTION __. Article 18.02(a), Code of Criminal Procedure, is amended to read as follows:

(a) A search warrant may be issued to search for and seize:

- (1) property acquired by theft or in any other manner which makes its acquisition a penal offense;
- (2) property specially designed, made, or adapted for or commonly used in the commission of an offense;
- (3) arms and munitions kept or prepared for the purposes of insurrection or riot;
- (4) weapons prohibited by the Penal Code;
- (5) gambling devices or equipment, altered gambling equipment, or gambling paraphernalia;
- (6) obscene materials kept or prepared for commercial distribution or exhibition, subject to the additional rules set forth by law;
- (7) a drug, controlled substance, immediate precursor, chemical precursor, or other controlled substance property, including an apparatus or paraphernalia kept, prepared, or manufactured in violation of the laws of this state;
- (8) any property the possession of which is prohibited by law;
- (9) implements or instruments used in the commission of a crime;
- (10) property or items, except the personal writings by the accused, constituting evidence of an offense or constituting evidence tending to show that a particular person committed an offense;
- (11) persons;
- (12) contraband subject to forfeiture under Chapter 59 of this code; [ø]
- (13) electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication

CONFERENCE

SECTION 1. Same as Senate version.

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held in electronic storage; or
(14) a cellular telephone or other wireless communications device, subject to Article 18.0215. [FA1(2)]

No equivalent provision.

SECTION __. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.0215 to read as follows:
Art. 18.0215. ACCESS TO CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE.

(a) A peace officer may not search a person's cellular telephone or other wireless communications device, pursuant to a lawful arrest of the person *or otherwise*, without obtaining a warrant under this article.

(b) A warrant under this article may be issued only by a *district* judge in the same judicial district as the site of:
(1) the law enforcement agency that employs the peace officer, if the cellular telephone or other wireless communications device is in the officer's possession; or
(2) the likely location of the telephone or device.

(c) A *district* judge may issue a warrant under this article only on the application of a peace officer. An application must be written and signed and sworn to or affirmed before the judge. The application must:
(1) state the name, department, agency, and address of the applicant;
(2) identify the cellular telephone or other wireless communications device to be searched;
(3) state the name of the owner or possessor of the telephone or device to be searched;
(4) state the judicial district in which:

SECTION 2. Chapter 18, Code of Criminal Procedure, is amended by adding Article 18.0215 to read as follows:
Art. 18.0215. ACCESS TO CELLULAR TELEPHONE OR OTHER WIRELESS COMMUNICATIONS DEVICE.

(a) A peace officer may not search a person's cellular telephone or other wireless communications device, pursuant to a lawful arrest of the person without obtaining a warrant under this article.

(b) A warrant under this article may be issued only by a judge in the same judicial district as the site of:
(1) the law enforcement agency that employs the peace officer, if the cellular telephone or other wireless communications device is in the officer's possession; or
(2) the likely location of the telephone or device.

(c) A judge may issue a warrant under this article only on the application of a peace officer. An application must be written and signed and sworn to or affirmed before the judge. The application must:
(1) state the name, department, agency, and address of the applicant;
(2) identify the cellular telephone or other wireless communications device to be searched;
(3) state the name of the owner or possessor of the telephone or device to be searched;
(4) state the judicial district in which:

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(A) the law enforcement agency that employs the peace officer is located, if the telephone or device is in the officer's possession; or

(B) the telephone or device is likely to be located; and

(5) state the facts and circumstances that provide the applicant with probable cause to believe that:

(A) criminal activity has been, is, or will be committed; and

(B) searching the telephone or device is likely to produce evidence in the investigation of the criminal activity described in Paragraph (A).

(d) Notwithstanding any other law, a peace officer may search a cellular telephone or other wireless communications device without a warrant if:

(1) the owner or possessor of the telephone or device consents to the search;

(2) the telephone or device is reported stolen by the owner or possessor; or

(3) the officer reasonably believes that:

(A) the telephone or device is in the possession of a fugitive from justice for whom an arrest warrant has been issued for committing a felony offense; or

(B) there exists an immediate life-threatening situation, as defined by Section 1, Article 18.20.

(e) A peace officer must apply for a warrant to search a cellular telephone or other wireless communications device as soon as practicable after a search is conducted under Subsection (d)(3)(A) or (B). If the *district* judge finds that the applicable situation under Subsection (d)(3)(A) or (B) did not occur and declines to issue the warrant, any evidence obtained is not admissible in a criminal action. [FA1(2)]

(A) the law enforcement agency that employs the peace officer is located, if the telephone or device is in the officer's possession; or

(B) the telephone or device is likely to be located; and

(5) state the facts and circumstances that provide the applicant with probable cause to believe that:

(A) criminal activity has been, is, or will be committed; and

(B) searching the telephone or device is likely to produce evidence in the investigation of the criminal activity described in Paragraph (A).

(d) Same as Senate version.

(e) A peace officer must apply for a warrant to search a cellular telephone or other wireless communications device as soon as practicable after a search is conducted under Subsection (d)(3)(A) or (B). If the judge finds that the applicable situation under Subsection (d)(3)(A) or (B) did not occur and declines to issue the warrant, any evidence obtained is not admissible in a criminal action.

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No equivalent provision.

SECTION 1. Subchapter C, Chapter 311, Government Code, is amended by adding Section 311.035.

No equivalent provision.

SECTION __. Article 32A.01, Code of Criminal Procedure, is amended to read as follows:

Art. 32A.01. TRIAL PRIORITIES. (a) Insofar as is practicable, the trial of a criminal action shall be given preference over trials of civil cases, and the trial of a criminal action against a defendant who is detained in jail pending trial of the action shall be given preference over trials of other criminal actions not described by Subsection (b).

(b) Unless extraordinary circumstances require otherwise, the trial of a criminal action in which the alleged victim is younger than 14 years of age shall be given preference over other matters before the court, whether civil or criminal.
[FA3]

SECTION 1. Same as House version.

SECTION __. Sections 28.03(b), (f), (h), and (j), Penal Code, are amended to read as follows:

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

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$100 [~~\$50~~]; or

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

(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];

(3) a Class A misdemeanor if:

(A) the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]; or

(B) the actor causes in whole or in part impairment or interruption of any public water supply, or causes to be

SECTION 3. Same as Senate version.

SECTION 4. Same as House version.

SECTION 5. Same as Senate version.

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diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public water supply, regardless of the amount of the pecuniary loss;

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

(A) \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(B) less than \$2,500 [~~\$1,500~~], if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon;

(C) less than \$2,500 [~~\$1,500~~], if the property was a fence used for the production or containment of:

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

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

(D) less than \$30,000 [~~\$20,000~~] and the actor causes wholly or partly impairment or interruption of public communications, public transportation, public gas or power supply, or other public service, or causes to be diverted wholly, partly, or in any manner, including installation or removal of any device for any such purpose, any public communications or public gas or power supply;

(5) a felony of the third degree if the amount of the pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) a felony of the second degree if the amount of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) a felony of the first degree if the amount of pecuniary loss is \$300,000 [~~\$200,000~~] or more.

(f) An offense under this section is a state jail felony if the damage or destruction is inflicted on a place of worship or

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human burial, a public monument, or a community center that provides medical, social, or educational programs and the amount of the pecuniary loss to real property or to tangible personal property is \$750 or more but less than \$30,000 [~~\$20,000~~].

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$750 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~] and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

(j) Notwithstanding Subsection (b), an offense under this section is a felony of the third degree if:

(1) the tangible property damaged, destroyed, or tampered with is transportation communications equipment or a transportation communications device; and

(2) the amount of the pecuniary loss to the tangible property is less than \$150,000 [~~\$100,000~~]. [FA2(2)]

No equivalent provision.

SECTION __. Section 28.06(d), Penal Code, is amended to read as follows:

(d) If the amount of pecuniary loss cannot be ascertained by the criteria set forth in Subsections (a) through (c), the amount of loss is deemed to be greater than \$750 [~~\$500~~] but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

SECTION 6. Same as Senate version.

No equivalent provision.

SECTION __. Section 28.07(e), Penal Code, is amended to read as follows:

(e) An offense under Subsection (b)(2)(B), (b)(2)(C), or (b)(2)(D) is a Class C misdemeanor unless the person causes pecuniary loss of \$100 or more, in which event the offense is:

(1) a Class B misdemeanor if the amount of pecuniary loss is

SECTION 7. Same as Senate version.

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\$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
(2) a Class A misdemeanor if the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
(3) a state jail felony if the amount of pecuniary loss is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
(4) a felony of the third degree if the amount of the pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
(5) a felony of the second degree if the amount of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
(6) a felony of the first degree if the amount of the pecuniary loss is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Sections 28.08(b) and (d), Penal Code, are amended to read as follows:

SECTION 8. Same as Senate version.

(b) Except as provided by Subsection (d), an offense under this section is:

(1) a Class C misdemeanor if the amount of pecuniary loss is less than \$100;
(2) a Class B misdemeanor if the amount of pecuniary loss is \$100 or more but less than \$750 [~~\$500~~];
(3) [~~(2)~~] a Class A misdemeanor if the amount of pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
(4) [~~(3)~~] a state jail felony if the amount of pecuniary loss is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
(5) [~~(4)~~] a felony of the third degree if the amount of pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
(6) [~~(5)~~] a felony of the second degree if the amount of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

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(7) [~~(6)~~] a felony of the first degree if the amount of pecuniary loss is \$300,000 [~~\$200,000~~] or more.

(d) An offense under this section is a state jail felony if:

(1) the marking is made on a school, an institution of higher education, a place of worship or human burial, a public monument, or a community center that provides medical, social, or educational programs; and

(2) the amount of the pecuniary loss to real property or to tangible personal property is \$750 or more but less than \$30,000 [~~\$20,000~~]. [FA2(2)]

No equivalent provision.

SECTION __. Article 14.06(d), Code of Criminal Procedure, is amended to read as follows:

(d) Subsection (c) applies only to a person charged with committing an offense under:

(1) Section 481.121, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(1-a) Section 481.1161, Health and Safety Code, if the offense is punishable under Subsection (b)(1) or (2) of that section;

(2) Section 28.03, Penal Code, if the offense is punishable under Subsection (b)(2) of that section;

(3) Section 28.08, Penal Code, if the offense is punishable under Subsection (b)(2) or (3) [~~(b)(1)~~] of that section;

(4) Section 31.03, Penal Code, if the offense is punishable under Subsection (e)(2)(A) of that section;

(5) Section 31.04, Penal Code, if the offense is punishable under Subsection (e)(2) of that section;

(6) Section 38.114, Penal Code, if the offense is punishable as a Class B misdemeanor; or

(7) Section 521.457, Transportation Code. [FA2(2)]

SECTION 9. Same as Senate version.

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No equivalent provision.

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SECTION __. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than \$100;

~~[(A) \$50; or~~

~~[(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06];~~

(2) a Class B misdemeanor if:

(A) the value of the property stolen is \$100;

~~[(i) \$50] or more but less than \$750 [\$500; or~~

~~[(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06];~~

(B) the value of the property stolen is less than \$100;

~~[(i) \$50] and the defendant has previously been convicted of any grade of theft; or~~

~~[(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or]~~

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by this state or another state;

(3) a Class A misdemeanor if the value of the property stolen is \$750 [\$500] or more but less than \$2,500 [\$1,500];

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SECTION 10. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) Same as Senate version.

(2) Same as Senate version.

(3) Same as Senate version.

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(4) a state jail felony if:

(A) the value of the property stolen is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~], or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$30,000 [~~\$20,000~~];

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$2,500 [~~\$1,500~~] and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$30,000 [~~\$20,000~~] and the property stolen is:

- (i) aluminum;
- (ii) bronze;
- (iii) copper; or
- (iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~], or the property is:

(A) cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$150,000 [~~\$100,000~~]; or

(B) 10 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$150,000 [~~\$100,000~~];

(4) a state jail felony if:

(A) the value of the property stolen is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~], or the property is less than 10 head of sheep, swine, or goats or any part thereof under the value of \$30,000 [~~\$20,000~~];

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave, including property that is a military grave marker;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$2,500 [~~\$1,500~~] and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than \$20,000 and the property stolen is:

- (i) aluminum;
- (ii) bronze;
- (iii) copper; or
- (iv) brass;

(5) Same as Senate version.

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(6) a felony of the second degree if:
(A) the value of the property stolen is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
(B) the value of the property stolen is less than \$300,000 [~~\$200,000~~] and the property stolen is an automated teller machine or the contents or components of an automated teller machine; or

(6) Same as Senate version.

(7) a felony of the first degree if the value of the property stolen is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

(7) Same as Senate version.

No equivalent provision.

SECTION __. Sections 31.04(b) and (e), Penal Code, are amended to read as follows:

SECTION 11. Same as Senate version.

(b) For purposes of this section, intent to avoid payment is presumed if:

(1) the actor absconded without paying for the service or expressly refused to pay for the service in circumstances where payment is ordinarily made immediately upon rendering of the service, as in hotels, campgrounds, recreational vehicle parks, restaurants, and comparable establishments;

(2) the actor failed to make payment under a service agreement within 10 days after receiving notice demanding payment;

(3) the actor returns property held under a rental agreement after the expiration of the rental agreement and fails to pay the applicable rental charge for the property within 10 days after the date on which the actor received notice demanding payment; or

(4) the actor failed to return the property held under a rental agreement:

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- (A) within five days after receiving notice demanding return, if the property is valued at less than \$2,500 [~~\$1,500~~]; or
- (B) within three days after receiving notice demanding return, if the property is valued at \$2,500 [~~\$1,500~~] or more.
- (e) An offense under this section is:
- (1) a Class C misdemeanor if the value of the service stolen is less than \$100 [~~\$20~~];
 - (2) a Class B misdemeanor if the value of the service stolen is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
 - (3) a Class A misdemeanor if the value of the service stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
 - (4) a state jail felony if the value of the service stolen is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
 - (5) a felony of the third degree if the value of the service stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
 - (6) a felony of the second degree if the value of the service stolen is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
 - (7) a felony of the first degree if the value of the service stolen is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 31.08(c), Penal Code, is amended to read as follows:

SECTION 12. Same as Senate version.

- (c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b), the property or service is deemed to have a value of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION __. Sections 31.16(c) and (d), Penal Code, are amended to read as follows:

SECTION 13. Same as Senate version.

- (c) An offense under this section is:

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- (1) a Class C misdemeanor if the total value of the merchandise involved in the activity is less than \$100;
- (2) a Class B misdemeanor if the total value of the merchandise involved in the activity is \$100 or more but less than \$750 [~~\$50~~];
- (3) [~~(2)~~] a Class A misdemeanor if the total value of the merchandise involved in the activity is \$750 [~~\$50~~] or more but less than \$2,500 [~~\$500~~];
- (4) [~~(3)~~] a state jail felony if the total value of the merchandise involved in the activity is \$2,500 [~~\$500~~] or more but less than \$30,000 [~~\$1,500~~];
- (5) [~~(4)~~] a felony of the third degree if the total value of the merchandise involved in the activity is \$30,000 [~~\$1,500~~] or more but less than \$150,000 [~~\$20,000~~];
- (6) [~~(5)~~] a felony of the second degree if the total value of the merchandise involved in the activity is \$150,000 [~~\$20,000~~] or more but less than \$300,000 [~~\$100,000~~]; or
- (7) [~~(6)~~] a felony of the first degree if the total value of the merchandise involved in the activity is \$300,000 [~~\$100,000~~] or more.
- (d) An offense described for purposes of punishment by Subsections (c)(1)-(6) [~~(e)(1)-(5)~~] is increased to the next higher category of offense if it is shown on the trial of the offense that:
- (1) the person organized, supervised, financed, or managed one or more other persons engaged in an activity described by Subsection (b); or
- (2) during the commission of the offense, a person engaged in an activity described by Subsection (b) intentionally, knowingly, or recklessly:
- (A) caused a fire exit alarm to sound or otherwise become activated;

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(B) deactivated or otherwise prevented a fire exit alarm or retail theft detector from sounding; or
(C) used a shielding or deactivation instrument to prevent or attempt to prevent detection of the offense by a retail theft detector. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.02(c), Penal Code, is amended to read as follows:

SECTION 14. Same as Senate version.

(c) If property or service has value that cannot be reasonably ascertained by the criteria set forth in Subsections (a) and (b), the property or service is deemed to have a value of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.23(e), Penal Code, is amended to read as follows:

SECTION 15. Same as Senate version.

(e) An offense under this section is a:

- (1) Class C misdemeanor if the retail value of the item or service is less than \$100 [~~\$20~~];
- (2) Class B misdemeanor if the retail value of the item or service is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
- (3) Class A misdemeanor if the retail value of the item or service is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) state jail felony if the retail value of the item or service is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) felony of the third degree if the retail value of the item or service is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) felony of the second degree if the retail value of the item or service is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) felony of the first degree if the retail value of the item or service is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

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No equivalent provision.

SECTION __. Section 32.32(c), Penal Code, is amended to read as follows:

(c) An offense under this section is:

(1) a Class C misdemeanor if the value of the property or the amount of credit is less than \$100 [~~\$50~~];

(2) a Class B misdemeanor if the value of the property or the amount of credit is \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];

(3) a Class A misdemeanor if the value of the property or the amount of credit is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if the value of the property or the amount of credit is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) a felony of the third degree if the value of the property or the amount of credit is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) a felony of the second degree if the value of the property or the amount of credit is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) a felony of the first degree if the value of the property or the amount of credit is \$300,000 [~~\$200,000~~] or more.
[FA2(2)]

SECTION 16. Same as Senate version.

No equivalent provision.

SECTION __. Sections 32.33(d) and (e), Penal Code, are amended to read as follows:

(d) An offense under Subsection (b) is a:

(1) Class C misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmed or reduced in value is less than \$100 [~~\$20~~];

(2) Class B misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise

SECTION 17. Same as Senate version.

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harmful or reduced in value is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

(3) Class A misdemeanor if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmful or reduced in value is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) state jail felony if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmful or reduced in value is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) felony of the third degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmful or reduced in value is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) felony of the second degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmful or reduced in value is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) felony of the first degree if the value of the property destroyed, removed, concealed, encumbered, or otherwise harmful or reduced in value is \$300,000 [~~\$200,000~~] or more.

(e) A person who is a debtor under a security agreement, and who does not have a right to sell or dispose of the secured property or is required to account to the secured party for the proceeds of a permitted sale or disposition, commits an offense if the person sells or otherwise disposes of the secured property, or does not account to the secured party for the proceeds of a sale or other disposition as required, with intent to appropriate (as defined in Chapter 31) the proceeds or value of the secured property. A person is presumed to have intended to appropriate proceeds if the person does not deliver the proceeds to the secured party or account to the secured

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party for the proceeds before the 11th day after the day that the secured party makes a lawful demand for the proceeds or account. An offense under this subsection is:

(1) a Class C misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of less than \$100 [~~\$20~~];

(2) a Class B misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

(3) a Class A misdemeanor if the proceeds obtained from the sale or other disposition are money or goods having a value of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if the proceeds obtained from the sale or other disposition are money or goods having a value of \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) a felony of the third degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) a felony of the second degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) a felony of the first degree if the proceeds obtained from the sale or other disposition are money or goods having a value of \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.34(f), Penal Code, is amended to read as follows:

(f) An offense under Subsection (b)(1), (b)(2), or (b)(3) is:

(1) a state jail felony if the value of the motor vehicle is less than \$30,000 [~~\$20,000~~]; [~~or~~]

SECTION 18. Same as Senate version.

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- (2) a felony of the third degree if the value of the motor vehicle is \$30,000 [~~\$20,000~~] or more but less than \$150,000;
- (3) a felony of the second degree if the value of the motor vehicle is \$150,000 or more but less than \$300,000; or
- (4) a felony of the first degree if the value of the motor vehicle is \$300,000 or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.35(e), Penal Code, is amended to read as follows:

- (e) An offense under this section is a:
- (1) Class C misdemeanor if the amount of the record of a sale is less than \$100 [~~\$20~~];
 - (2) Class B misdemeanor if the amount of the record of a sale is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
 - (3) Class A misdemeanor if the amount of the record of a sale is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
 - (4) state jail felony if the amount of the record of a sale is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
 - (5) felony of the third degree if the amount of the record of a sale is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
 - (6) felony of the second degree if the amount of the record of a sale is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
 - (7) felony of the first degree if the amount of the record of a sale is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

SECTION 19. Same as Senate version.

No equivalent provision.

SECTION __. Section 32.441(e), Penal Code, is amended to read as follows:

- (e) An offense under this section is a:
- (1) Class C misdemeanor if the value of the benefit is less than \$100 [~~\$20~~];

SECTION 20. Same as Senate version.

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- (2) Class B misdemeanor if the value of the benefit is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
- (3) Class A misdemeanor if the value of the benefit is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) state jail felony if the value of the benefit is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) felony of the third degree if the value of the benefit is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) felony of the second degree if the value of the benefit is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) felony of the first degree if the value of the benefit is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.45(c), Penal Code, is amended to read as follows:

(c) An offense under this section is:

- (1) a Class C misdemeanor if the value of the property misapplied is less than \$100 [~~\$20~~];
- (2) a Class B misdemeanor if the value of the property misapplied is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the property misapplied is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) a state jail felony if the value of the property misapplied is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the value of the property misapplied is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the value of the property misapplied is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

SECTION 21. Same as Senate version.

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(7) a felony of the first degree if the value of the property misapplied is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 32.46(b), Penal Code, is amended to read as follows:

(b) An offense under Subsection (a)(1) is a:

(1) Class C misdemeanor if the value of the property, service, or pecuniary interest is less than \$100 [~~\$20~~];

(2) Class B misdemeanor if the value of the property, service, or pecuniary interest is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

(3) Class A misdemeanor if the value of the property, service, or pecuniary interest is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) state jail felony if the value of the property, service, or pecuniary interest is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

(5) felony of the third degree if the value of the property, service, or pecuniary interest is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) felony of the second degree if the value of the property, service, or pecuniary interest is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

(7) felony of the first degree if the value of the property, service, or pecuniary interest is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

SECTION 22. Same as Senate version.

No equivalent provision.

SECTION __. Section 33.02(b-2), Penal Code, is amended to read as follows:

(b-2) An offense under Subsection (b-1) is:

(1) a Class C misdemeanor if the aggregate amount involved is less than \$100;

SECTION 23. Same as Senate version.

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(2) a Class B misdemeanor if the aggregate amount involved is \$100 or more but less than \$750;

(3) a Class A misdemeanor if the aggregate amount involved is \$750 or more but less than \$2,500;

(4) [(+)] a state jail felony if the aggregate amount involved is \$2,500 or more but less than \$30,000 [~~\$20,000~~];

(5) [(2)] a felony of the third degree if the aggregate amount involved is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

(6) [(3)] a felony of the second degree if:

(A) the aggregate amount involved is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~];

(B) the aggregate amount involved is any amount less than \$300,000 [~~\$200,000~~] and the computer, computer network, or computer system is owned by the government or a critical infrastructure facility; or

(C) the actor obtains the identifying information of another by accessing only one computer, computer network, or computer system; or

(7) [(4)] a felony of the first degree if:

(A) the aggregate amount involved is \$300,000 [~~\$200,000~~] or more; or

(B) the actor obtains the identifying information of another by accessing more than one computer, computer network, or computer system. [FA2(2)]

No equivalent provision.

SECTION __. Section 33A.02(b), Penal Code, is amended. [FA2(2)]

Same as House version.

No equivalent provision.

SECTION __. Section 33A.04(b), Penal Code, is amended. [FA2(2)]

Same as House version.

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No equivalent provision.

SECTION __. Section 34.02(e), Penal Code, is amended to read as follows:

(e) An offense under this section is:

- (1) a state jail felony if the value of the funds is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (2) a felony of the third degree if the value of the funds is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (3) a felony of the second degree if the value of the funds is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (4) a felony of the first degree if the value of the funds is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

SECTION 24. Same as Senate version.

No equivalent provision.

SECTION __. Section 35.02(c), Penal Code, is amended to read as follows:

(c) An offense under Subsection (a) or (b) is:

- (1) a Class C misdemeanor if the value of the claim is less than \$100 [~~\$50~~];
- (2) a Class B misdemeanor if the value of the claim is \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the claim is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) a state jail felony if the value of the claim is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the value of the claim is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the value of the claim is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) a felony of the first degree if:
 - (A) the value of the claim is \$300,000 [~~\$200,000~~] or more; or
 - (B) an act committed in connection with the commission of

SECTION 25. Same as Senate version.

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the offense places a person at risk of death or serious bodily injury. [FA2(2)]

No equivalent provision.

SECTION __. Section 35.025(b), Penal Code, is amended to read as follows:

SECTION 26. Same as Senate version.

(b) If goods or services that are the subject of a claim cannot be reasonably ascertained under Subsection (a), the goods or services are considered to have a value of \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~]. [FA2(2)]

No equivalent provision.

SECTION __. Section 35A.02(b), Penal Code, is amended to read as follows:

SECTION 27. Same as Senate version.

(b) An offense under this section is:

(1) a Class C misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is less than \$100 [~~\$50~~];

(2) a Class B misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~];

(3) a Class A misdemeanor if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

(4) a state jail felony if:

(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$2,500 [~~\$1,500~~] or more but less than \$30,000

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[~~\$20,000~~];
(B) the offense is committed under Subsection (a)(11); or
(C) it is shown on the trial of the offense that the amount of the payment or value of the benefit described by this subsection cannot be reasonably ascertained;
(5) a felony of the third degree if:
(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~]; or
(B) it is shown on the trial of the offense that the defendant submitted more than 25 but fewer than 50 fraudulent claims under the Medicaid program and the submission of each claim constitutes conduct prohibited by Subsection (a);
(6) a felony of the second degree if:
(A) the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
(B) it is shown on the trial of the offense that the defendant submitted 50 or more fraudulent claims under the Medicaid program and the submission of each claim constitutes conduct prohibited by Subsection (a); or
(7) a felony of the first degree if the amount of any payment or the value of any monetary or in-kind benefit provided or claim for payment made under the Medicaid program, directly or indirectly, as a result of the conduct is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

No equivalent provision.

SECTION __. Section 39.02(c), Penal Code, is amended to

SECTION 28. Same as Senate version.

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read as follows:

(c) An offense under Subsection (a)(2) is:

- (1) a Class C misdemeanor if the value of the use of the thing misused is less than \$100 [~~\$20~~];
- (2) a Class B misdemeanor if the value of the use of the thing misused is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];
- (3) a Class A misdemeanor if the value of the use of the thing misused is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];
- (4) a state jail felony if the value of the use of the thing misused is \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];
- (5) a felony of the third degree if the value of the use of the thing misused is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];
- (6) a felony of the second degree if the value of the use of the thing misused is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or
- (7) a felony of the first degree if the value of the use of the thing misused is \$300,000 [~~\$200,000~~] or more. [FA2(2)]

SECTION 2. Provides for a commission to study and review all penal laws of the state other than certain criminal offenses.

SECTION 2. Same as House version.

SECTION 29. Same as House version.

SECTION 3.

SECTION __.

SECTION 30.

No equivalent provision.

(a) *Except as provided by Subsection (b) of this section*, the changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act 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 purposes of this subsection, an offense was

(a) The changes in law made by this Act *to the Penal Code* apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act 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 purposes of this subsection, an offense was committed before the effective date of this Act if

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	committed before the effective date of this Act if any element of the offense occurred before that date.	any element of the offense occurred before that date.
Saving provision.	(b) Saving provision <i>relating to Section 311.035, Government Code, as added by the bill.</i> [FA2(2)]	(b) Same as Senate version.
<i>No equivalent provision.</i>	SECTION 3. Saving provision was added by FA1(1) and deleted by FA2(1).	Same as House version.
SECTION 4. This Act takes effect September 1, 2015.	SECTION 4. Same as House version.	SECTION 31. Same as House version.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1396 by Workman (Relating to certain criminal offenses, punishments, and procedures; the construction of certain statutes and rules that create or define criminal offenses and penalties; a review of certain penal laws of this state.), **Conference Committee Report**

The probable fiscal impact of implementing the bill is expected to be positive but it is indeterminate due to the unavailability of reliable data or information related to the exact amount of pecuniary loss for certain offenses against property or public administration. Depending upon the number of convictions that could be affected by the shifting punishment categories, there could also be an indeterminate revenue impact to the state.

The bill would amend the various codes as they relate to the construction of certain statutes and rules that create or define criminal offenses and penalties and a review of certain penal laws of this state. Under the provisions of the bill, the pecuniary loss amounts aligned with certain punishment ranges would be increased. The bill would also expand the punishment range for fraudulent transfer of a motor vehicle to include additional felony punishments. Increasing the amount of pecuniary loss aligned with certain punishment ranges is expected to result in decreased demands upon the correctional resources of counties or of the state due to shorter terms of probation or shorter terms of confinement. The bill may have a positive fiscal impact by decreasing the number of people under felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant amount of savings to the state is indeterminate due to a lack of statewide data on the exact amount of pecuniary loss for those convicted of certain offenses against property or public administration. Expanding the punishment range for fraudulent transfer of a motor vehicle to include additional felony punishments is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation or longer terms of confinement. Depending upon the number of convictions that could be affected by the shifting punishment categories, there could also be an indeterminate revenue impact to the state. The bill would also amend the Code of Criminal Procedure to prohibit a peace officer from searching a person's cell phone or other wireless communications device without a search warrant and provide related guidelines and exceptions. The bill would also create a commission to review all penal laws other than criminal offenses and give certain criminal trials preference over other criminal and civil trials. The Office of Court Administration and the Office of the Governor indicate implementing the provisions of the bill would not result in a significant fiscal impact. The Department of Public Safety indicates it can implement bill provisions within existing resources. This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

Changes in costs relating to enforcement, prosecution, and confinement could likely be absorbed within existing resources. Changes in revenue from fines imposed and collected is not anticipated to have a significant fiscal impact.

Source Agencies:

LBB Staff: UP, ESi, KJo, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 30, 2015

TO: Honorable Dan Patrick, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1396 by Workman (Relating to certain criminal offenses, punishments, and procedures; the construction of certain statutes and rules that create or define criminal offenses and penalties; a review of certain penal laws of this state.), **Conference Committee Report**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the penalty for certain offenses against property or against public administration. Under the provisions of the bill, the pecuniary loss amounts aligned with certain penalty ranges would be increased. The bill would also expand the penalty range for fraudulent transfer of a motor vehicle to include additional felony punishments. Under current law, offenses against property or against public administration are punished at various misdemeanor and felony levels depending on the circumstances of the offense, with the penalty increasing in severity based on the specific amount of pecuniary loss.

Increasing the amount of pecuniary loss aligned with certain penalty ranges is expected to result in decreased demands upon the correctional resources of counties or of the state due to shorter terms of probation or shorter terms of confinement in state correctional institutions. The bill may have a positive fiscal impact by decreasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant reduction in correctional populations and demands on state correctional resources is indeterminate due to a lack of statewide data on the exact amount of pecuniary loss for those convicted of certain offenses against property or against public administration.

Expanding the punishment range for fraudulent transfer of a motor vehicle to include additional felony punishment levels is expected to result in increased demands upon the correctional resources of counties or of the state due to longer terms of probation or longer terms of confinement in state correctional institutions. This analysis assumes this provision of the bill would not significantly impact state correctional populations, programs, or workloads.


Source Agencies:

LBB Staff: UP, LM, ESi

**Certification of Compliance with
Rule 13, Section 6(b), House Rules of Procedure**

Rule 13, Section 6(b), House Rules of Procedure, requires a copy of a conference committee report signed by a majority of each committee of the conference to be furnished to each member of the committee in person or, if unable to deliver in person, by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Rule 13, Section 10(a). The paper copies of the report submitted to the chief clerk under Rule 13, Section 10(b), must contain a certificate that the requirement of Rule 13, Section 6(b), has been satisfied, and that certificate must be attached to the copy of the report furnished to each member under Rule 13, Section 10(d). Failure to comply with this requirement is not a sustainable point of order under Rule 13.

I certify that a copy of the conference committee report on HB1396 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Rule 13, Section 10(b), House Rules of Procedure.



(name)

5.30.15

(date)