

## **BILL ANALYSIS**

Senate Research Center  
76R15889 JMC-F

C.S.H.B. 2190  
By: Hinojosa (Arbrister)  
Criminal Justice  
5/13/1999  
Committee Report (Substituted)

### **DIGEST**

Currently, a presumption of intent to steal is created when a defendant passes a check to obtain property and at the time does not have sufficient funds to cover the payment in full. In the event that a product is delivered to a purchaser before the actual receipt of the payment, the courts have interpreted the Penal Code to require the check to be given before the exchange of property or services in order for the recipient of the dishonored check to prove intent to defraud. Amending the Penal Code would allow the issuance of a check or similar sight order with insufficient funds to be used as prima facie evidence of theft of livestock by check, rather than only when the instrument and property are simultaneously exchanged. C.S.H.B. 2190 would establish prima facie evidence for the offense of theft of livestock by check.

### **PURPOSE**

As proposed, C.S.H.B. 2190 establishes prima facie evidence for the offense of theft of livestock by check.

### **RULEMAKING AUTHORITY**

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 31.06, Penal Code, by adding Subsections (g) and (h), to provide that it is prima facie evidence that a person deprived an owner of livestock, if the person issued certain checks without sufficient funds to cover the check at the time of issuance. Defines "livestock."

SECTION 2. Effective date: September 1, 1999.  
Makes application of this Act prospective.

SECTION 3. Emergency clause.