

1-1 By: Anderson, Collier (Senate Sponsor - Miles) H.B. No. 2524
1-2 (In the Senate - Received from the House May 7, 2019;
1-3 May 10, 2019, read first time and referred to Committee on Criminal
1-4 Justice; May 19, 2019, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 6, Nays 0;
1-6 May 19, 2019, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2524 By: Whitmire

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the prosecution of the criminal offense of theft of
1-20 service.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 31.04, Penal Code, is amended by
1-23 amending Subsections (b), (c), (d), and (d-1) and adding
1-24 Subsections (d-2), (d-3), (d-4), and (d-5) to read as follows:

1-25 (b) For purposes of this section, intent to avoid payment is
1-26 presumed if any of the following occurs:

1-27 (1) the actor absconded without paying for the service
1-28 or expressly refused to pay for the service in circumstances where
1-29 payment is ordinarily made immediately upon rendering of the
1-30 service, as in hotels, campgrounds, recreational vehicle parks,
1-31 restaurants, and comparable establishments;

1-32 (2) the actor failed to make payment under a service
1-33 agreement within 10 days after receiving notice demanding payment;

1-34 (3) the actor returns property held under a rental
1-35 agreement after the expiration of the rental agreement and fails to
1-36 pay the applicable rental charge for the property within 10 days
1-37 after the date on which the actor received notice demanding
1-38 payment; ~~or~~

1-39 (4) the actor failed to return the property held under
1-40 a rental agreement:

1-41 (A) within five days after receiving notice
1-42 demanding return, if the property is valued at less than \$2,500;
1-43 ~~or~~

1-44 (B) within three days after receiving notice
1-45 demanding return, if the property is valued at \$2,500 or more but
1-46 less than \$10,000; or

1-47 (C) within two days after receiving notice
1-48 demanding return, if the property is valued at \$10,000 or more; or

1-49 (5) the actor:

1-50 (A) failed to return the property held under an
1-51 agreement described by Subsections (d-2)(1)-(3) within five
1-52 business days after receiving notice demanding return; and

1-53 (B) has made fewer than three complete payments
1-54 under the agreement.

1-55 (c) For purposes of Subsections (a)(4), (b)(2), ~~and~~
1-56 (b)(4), and (b)(5), notice must ~~shall~~ be:

1-57 (1) [notice] in writing;

1-58 (2) [r] sent by:

1-59 (A) registered or certified mail with return
1-60 receipt requested; or

2-1 (B) commercial delivery service; [~~or by telegram~~
2-2 with report of delivery requested,] and
2-3 (3) sent [~~addressed~~] to the actor using the actor's
2-4 mailing [~~at his~~] address shown on the rental agreement or service
2-5 agreement.

2-6 (d) Except as otherwise provided by this subsection, if [~~if~~]
2-7 written notice is given in accordance with Subsection (c), it is
2-8 presumed that the notice was received not [~~no~~] later than two [~~five~~]
2-9 days after the notice [~~it~~] was sent. For purposes of Subsections
2-10 (b)(4)(A) and (B), if written notice is given in accordance with
2-11 Subsection (c), it is presumed that the notice was received not
2-12 later than five days after the notice was sent.

2-13 (d-1) For purposes of Subsection (a)(2), the diversion of
2-14 services to the benefit of a person who is not entitled to those
2-15 services includes the disposition of personal property by an actor
2-16 having control of the property under an agreement described by
2-17 Subsections (d-2)(1)-(3), if the actor disposes of the property in
2-18 violation of the terms of the agreement and to the benefit of any
2-19 person who is not entitled to the property.

2-20 (d-2) For purposes of Subsection (a)(3), the term "written
2-21 rental agreement" does not include an agreement that:

2-22 (1) permits an individual to use personal property for
2-23 personal, family, or household purposes for an initial rental
2-24 period;

2-25 (2) is automatically renewable with each payment after
2-26 the initial rental period; and

2-27 (3) permits the individual to become the owner of the
2-28 property.

2-29 (d-3) For purposes of Subsection (a)(4):

2-30 (1) if the compensation is or was to be paid on a
2-31 periodic basis, the intent to avoid payment for a service may be
2-32 formed at any time during or before a pay period; and

2-33 (2) the partial payment of wages alone is not
2-34 sufficient evidence to negate the actor's intent to avoid payment
2-35 for a service.

2-36 (d-4) A presumption established under Subsection (b)
2-37 involving a defendant's failure to return property held under an
2-38 agreement described by Subsections (d-2)(1)-(3) may be refuted if
2-39 the defendant shows that the defendant:

2-40 (1) intended to return the property; and

2-41 (2) was unable to return the property.

2-42 (d-5) For purposes of Subsection (b)(5), "business day"
2-43 means a day other than Sunday or a state or federal holiday.

2-44 SECTION 2. The change in law made by this Act applies only
2-45 to an offense committed on or after the effective date of this Act.
2-46 An offense committed before the effective date of this Act is
2-47 governed by the law in effect on the date the offense was committed,
2-48 and the former law is continued in effect for that purpose. For
2-49 purposes of this section, an offense was committed before the
2-50 effective date of this Act if any element of the offense occurred
2-51 before that date.

2-52 SECTION 3. This Act takes effect September 1, 2019.

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