

SENATE AMENDMENTS

2nd Printing

By: Workman

H.B. No. 1396

A BILL TO BE ENTITLED

AN ACT

relating 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.

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

SECTION 1. Subchapter C, Chapter 311, Government Code, is amended by adding Section 311.035 to read as follows:

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

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

(1) an element of offense; or

(2) the penalty to be imposed.

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

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

SECTION 2. (a) A commission is created to study and review all penal laws of this state other than criminal offenses:

- 1 (1) under the Penal Code;
- 2 (2) under Chapter 481, Health and Safety Code; or
- 3 (3) related to the operation of a motor vehicle.

4 (b) The commission shall:

5 (1) evaluate all laws described by Subsection (a) of

6 this section; and

7 (2) make recommendations to the legislature regarding

8 the repeal of laws that are identified as being unnecessary,

9 unclear, duplicative, overly broad, or otherwise insufficient to

10 serve the intended purpose of the law.

11 (c) The commission is composed of nine members appointed as

12 follows:

- 13 (1) two members appointed by the governor;
- 14 (2) two members appointed by the lieutenant governor;
- 15 (3) two members appointed by the speaker of the house
- 16 of representatives;

17 (4) two members appointed by the chief justice of the

18 Supreme Court of Texas; and

19 (5) one member appointed by the presiding judge of the

20 Texas Court of Criminal Appeals.

21 (d) The officials making appointments to the commission

22 under Subsection (c) of this section shall ensure that the

23 membership of the commission includes representatives of all areas

24 of the criminal justice system, including prosecutors, defense

25 attorneys, judges, legal scholars, and relevant business

26 interests.

27 (e) The governor shall designate one member of the

1 commission to serve as the presiding officer of the commission.

2 (f) A member of the commission is not entitled to
3 compensation or reimbursement of expenses.

4 (g) The commission shall meet at the call of the presiding
5 officer.

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

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

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

22 SECTION 3. The change in law made by this Act applies only
23 to a criminal proceeding that commences on or after the effective
24 date of this Act. A criminal proceeding that commences before the
25 effective date of this Act is governed by the law in effect on the
26 date the proceeding commenced, and the former law is continued in
27 effect for that purpose.

1 SECTION 4. This Act takes effect September 1, 2015.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 27 2015

BY: Kenneth Burton

Haley Spaw
Secretary of the Senate

1 Amend H.B. No. 1396 (senate committee printing) as follows:

2 (1) In SECTION 3 of the bill (page 2, line 27), between
3 "made by this Act" and "applies only", insert "in adding Section
4 311.035, Government Code,".

5 (2) Add the following appropriately numbered SECTIONS to
6 the bill and renumbering subsequent SECTIONS of the bill
7 accordingly:

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

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

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

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

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

18 (4) weapons prohibited by the Penal Code;

19 (5) gambling devices or equipment, altered gambling
20 equipment, or gambling paraphernalia;

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

24 (7) a drug, controlled substance, immediate
25 precursor, chemical precursor, or other controlled substance
26 property, including an apparatus or paraphernalia kept,
27 prepared, or manufactured in violation of the laws of this
28 state;

29 (8) any property the possession of which is
30 prohibited by law;

1 (9) implements or instruments used in the commission
2 of a crime;

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

7 (11) persons;

8 (12) contraband subject to forfeiture under Chapter
9 59 of this code; ~~[or]~~

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

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

16 SECTION __. Chapter 18, Code of Criminal Procedure, is
17 amended by adding Article 18.0215 to read as follows:

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

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

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

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

29 (c) A district judge may issue a warrant under this
30 article only on the application of a peace officer. An
31 application must be written and signed and sworn to or affirmed
32 before the judge. The application must:

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

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

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

7 (4) state the judicial district in which:

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

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

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

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

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

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

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

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

27 (3) the officer reasonably believes that:

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

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

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

ADOPTED

7 2015

FLOOR AMENDMENT NO. 2

Secretary of the Senate

BY: Yonnie Burton

1 Amend H.B. No. 1396 (senate committee report) as follows:

2 (1) Strike SECTION 3 of the bill (page 2, lines 27-32).

3 (2) Add the following appropriately numbered SECTIONS to
4 the bill and renumber SECTIONS of the bill accordingly:

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

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

9 (1) a Class C misdemeanor if:

10 (A) the amount of pecuniary loss is less than
11 \$100 [~~\$50~~]; or

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

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

16 (3) a Class A misdemeanor if:

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

19 (B) the actor causes in whole or in part
20 impairment or interruption of any public water supply, or causes to
21 be diverted in whole, in part, or in any manner, including
22 installation or removal of any device for any such purpose, any
23 public water supply, regardless of the amount of the pecuniary
24 loss;

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

27 (A) \$2,500 [~~\$1,500~~] or more but less than \$30,000
28 [~~\$20,000~~];

29 (B) less than \$2,500 [~~\$1,500~~], if the property

1 damaged or destroyed is a habitation and if the damage or
2 destruction is caused by a firearm or explosive weapon;

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

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

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

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

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

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

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

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

30 (h) An offense under this section is a state jail felony if
31 the amount of the pecuniary loss to real property or to tangible

1 personal property is \$750 [~~\$1,500~~] or more but less than \$30,000
2 [~~\$20,000~~] and the damage or destruction is inflicted on a public or
3 private elementary school, secondary school, or institution of
4 higher education.

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

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

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

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

14 (d) If the amount of pecuniary loss cannot be ascertained by
15 the criteria set forth in Subsections (a) through (c), the amount of
16 loss is deemed to be greater than \$750 [~~\$500~~] but less than \$2,500
17 [~~\$1,500~~].

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

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

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

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

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

29 (4) a felony of the third degree if the amount of the
30 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000
31 [~~\$100,000~~];

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

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

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

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

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

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

14 (3) [~~(2)~~] a Class A misdemeanor if the amount of
15 pecuniary loss is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

16 (4) [~~(3)~~] a state jail felony if the amount of
17 pecuniary loss is \$2,500 [~~\$1,500~~] or more but less than \$30,000
18 [~~\$20,000~~];

19 (5) [~~(4)~~] a felony of the third degree if the amount of
20 pecuniary loss is \$30,000 [~~\$20,000~~] or more but less than \$150,000
21 [~~\$100,000~~];

22 (6) [~~(5)~~] a felony of the second degree if the amount
23 of pecuniary loss is \$150,000 [~~\$100,000~~] or more but less than
24 \$300,000 [~~\$200,000~~]; or

25 (7) [~~(6)~~] a felony of the first degree if the amount of
26 pecuniary loss is \$300,000 [~~\$200,000~~] or more.

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

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

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

4 (2) a Class B misdemeanor if:

5 (A) the value of the property stolen is \$100[+
6 [~~(i) \$50~~] or more but less than \$750 [~~\$500~~,
7 ~~or~~

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

11 (B) the value of the property stolen is less than
12 \$100[+

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

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

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

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

24 (4) a state jail felony if:

25 (A) the value of the property stolen is \$2,500
26 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~], or the property is
27 less than 10 head of sheep, swine, or goats or any part thereof
28 under the value of \$30,000 [~~\$20,000~~];

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

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

3 (D) the value of the property stolen is less than
4 \$2,500 [~~\$1,500~~] and the defendant has been previously convicted two
5 or more times of any grade of theft;

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

8 (F) the value of the property stolen is less than
9 \$30,000 [~~\$20,000~~] and the property stolen is:

10 (i) aluminum;

11 (ii) bronze;

12 (iii) copper; or

13 (iv) brass;

14 (5) a felony of the third degree if the value of the
15 property stolen is \$30,000 [~~\$20,000~~] or more but less than \$150,000
16 [~~\$100,000~~], or the property is:

17 (A) cattle, horses, or exotic livestock or exotic
18 fowl as defined by Section 142.001, Agriculture Code, stolen during
19 a single transaction and having an aggregate value of less than
20 \$150,000 [~~\$100,000~~]; or

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

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

25 (A) the value of the property stolen is \$150,000
26 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

27 (B) the value of the property stolen is less than
28 \$300,000 [~~\$200,000~~] and the property stolen is an automated teller
29 machine or the contents or components of an automated teller
30 machine; or

31 (7) a felony of the first degree if the value of the

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

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

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

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

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

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

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

20 (A) within five days after receiving notice
21 demanding return, if the property is valued at less than \$2,500
22 [~~\$1,500~~]; or

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

26 (e) An offense under this section is:

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

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

31 (3) a Class A misdemeanor if the value of the service

1 stolen is \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

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

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

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

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

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

14 (c) If property or service has value that cannot be
15 reasonably ascertained by the criteria set forth in Subsections (a)
16 and (b), the property or service is deemed to have a value of \$750
17 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~].

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

20 (c) An offense under this section is:

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

23 (2) a Class B misdemeanor if the total value of the
24 merchandise involved in the activity is \$100 or more but less than
25 \$750 [~~\$50~~];

26 (3) [~~(2)~~] a Class A misdemeanor if the total value of
27 the merchandise involved in the activity is \$750 [~~\$50~~] or more but
28 less than \$2,500 [~~\$500~~];

29 (4) [~~(3)~~] a state jail felony if the total value of the
30 merchandise involved in the activity is \$2,500 [~~\$500~~] or more but
31 less than \$30,000 [~~\$1,500~~];

1 (5) [~~(4)~~] a felony of the third degree if the total
2 value of the merchandise involved in the activity is \$30,000
3 [~~\$1,500~~] or more but less than \$150,000 [~~\$20,000~~];

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

7 (7) [~~(6)~~] a felony of the first degree if the total
8 value of the merchandise involved in the activity is \$300,000
9 [~~\$100,000~~] or more.

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

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

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

19 (A) caused a fire exit alarm to sound or
20 otherwise become activated;

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

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

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

28 (c) If property or service has value that cannot be
29 reasonably ascertained by the criteria set forth in Subsections (a)
30 and (b), the property or service is deemed to have a value of \$750
31 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~].

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

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

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

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

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

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

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

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

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

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

23 (c) An offense under this section is:

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

26 (2) a Class B misdemeanor if the value of the property
27 or the amount of credit is \$100 [~~\$50~~] or more but less than \$750
28 [~~\$500~~];

29 (3) a Class A misdemeanor if the value of the property
30 or the amount of credit is \$750 [~~\$500~~] or more but less than \$2,500
31 [~~\$1,500~~];

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

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

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

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

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

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

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

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

21 (3) Class A misdemeanor if the value of the property
22 destroyed, removed, concealed, encumbered, or otherwise harmed or
23 reduced in value is \$750 [~~\$500~~] or more but less than \$2,500
24 [~~\$1,500~~];

25 (4) state jail felony if the value of the property
26 destroyed, removed, concealed, encumbered, or otherwise harmed or
27 reduced in value is \$2,500 [~~\$1,500~~] or more but less than \$30,000
28 [~~\$20,000~~];

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

1 than \$150,000 [~~\$100,000~~];

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

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

9 (e) A person who is a debtor under a security agreement, and
10 who does not have a right to sell or dispose of the secured property
11 or is required to account to the secured party for the proceeds of a
12 permitted sale or disposition, commits an offense if the person
13 sells or otherwise disposes of the secured property, or does not
14 account to the secured party for the proceeds of a sale or other
15 disposition as required, with intent to appropriate (as defined in
16 Chapter 31) the proceeds or value of the secured property. A person
17 is presumed to have intended to appropriate proceeds if the person
18 does not deliver the proceeds to the secured party or account to the
19 secured party for the proceeds before the 11th day after the day
20 that the secured party makes a lawful demand for the proceeds or
21 account. An offense under this subsection is:

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

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

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

31 (4) a state jail felony if the proceeds obtained from

1 the sale or other disposition are money or goods having a value of
2 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

3 (5) a felony of the third degree if the proceeds
4 obtained from the sale or other disposition are money or goods
5 having a value of \$30,000 [~~\$20,000~~] or more but less than \$150,000
6 [~~\$100,000~~];

7 (6) a felony of the second degree if the proceeds
8 obtained from the sale or other disposition are money or goods
9 having a value of \$150,000 [~~\$100,000~~] or more but less than \$300,000
10 [~~\$200,000~~]; or

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

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

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

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

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

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

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

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

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

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

31 (2) Class B misdemeanor if the amount of the record of

1 a sale is \$100 [~~\$20~~] or more but less than \$750 [~~\$500~~];

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

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

6 (5) felony of the third degree if the amount of the
7 record of a sale is \$30,000 [~~\$20,000~~] or more but less than \$150,000
8 [~~\$100,000~~];

9 (6) felony of the second degree if the amount of the
10 record of a sale is \$150,000 [~~\$100,000~~] or more but less than
11 \$300,000 [~~\$200,000~~]; or

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

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

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

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

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

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

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

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

28 (6) felony of the second degree if the value of the
29 benefit is \$150,000 [~~\$100,000~~] or more but less than \$300,000
30 [~~\$200,000~~]; or

31 (7) felony of the first degree if the value of the

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

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

4 (c) An offense under this section is:

5 (1) a Class C misdemeanor if the value of the property
6 misapplied is less than \$100 [~~\$20~~];

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

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

11 (4) a state jail felony if the value of the property
12 misapplied is \$2,500 [~~\$1,500~~] or more but less than \$30,000
13 [~~\$20,000~~];

14 (5) a felony of the third degree if the value of the
15 property misapplied is \$30,000 [~~\$20,000~~] or more but less than
16 \$150,000 [~~\$100,000~~];

17 (6) a felony of the second degree if the value of the
18 property misapplied is \$150,000 [~~\$100,000~~] or more but less than
19 \$300,000 [~~\$200,000~~]; or

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

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

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

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

27 (2) Class B misdemeanor if the value of the property,
28 service, or pecuniary interest is \$100 [~~\$20~~] or more but less than
29 \$750 [~~\$500~~];

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

1 \$2,500 [~~\$1,500~~];

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

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

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

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

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

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

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

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

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

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

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

28 (6) [~~(3)~~] a felony of the second degree if:

29 (A) the aggregate amount involved is \$150,000
30 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~];

31 (B) the aggregate amount involved is any amount

1 less than \$300,000 [~~\$200,000~~] and the computer, computer network,
2 or computer system is owned by the government or a critical
3 infrastructure facility; or

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

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

8 (A) the aggregate amount involved is \$300,000
9 [~~\$200,000~~] or more; or

10 (B) the actor obtains the identifying
11 information of another by accessing more than one computer,
12 computer network, or computer system.

13 SECTION _____. Section 33A.02(b), Penal Code, is amended to
14 read as follows:

15 (b) An offense under this section is:

16 (1) a Class C misdemeanor if the value of the
17 telecommunications service used or diverted is less than \$100;

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

21 (3) [~~(2)~~] a Class A misdemeanor if:

22 (A) the value of the telecommunications service
23 used or diverted is \$750 [~~\$500~~] or more but less than \$2,500
24 [~~\$1,500~~]; or

25 (B) the value of the telecommunications service
26 used or diverted is less than \$750 [~~\$500~~] and the defendant has been
27 previously convicted of an offense under this chapter;

28 (4) [~~(3)~~] a state jail felony if:

29 (A) the value of the telecommunications service
30 used or diverted is \$2,500 [~~\$1,500~~] or more but less than \$30,000
31 [~~\$20,000~~]; or

1 (B) the value of the telecommunications service
2 used or diverted is less than \$2,500 [~~\$1,500~~] and the defendant has
3 been previously convicted two or more times of an offense under this
4 chapter;

5 (5) [~~(4)~~] a felony of the third degree if the value of
6 the telecommunications service used or diverted is \$30,000
7 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

8 (6) [~~(5)~~] a felony of the second degree if the value of
9 the telecommunications service used or diverted is \$150,000
10 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~]; or

11 (7) [~~(6)~~] a felony of the first degree if the value of
12 the telecommunications service used or diverted is \$300,000
13 [~~\$200,000~~] or more.

14 SECTION _____. Section 33A.04(b), Penal Code, is amended to
15 read as follows:

16 (b) An offense under this section is:

17 (1) a Class C misdemeanor if the value of the
18 telecommunications service obtained or attempted to be obtained is
19 less than \$100;

20 (2) a Class B misdemeanor if the value of the
21 telecommunications service obtained or attempted to be obtained is
22 \$100 or more but less than \$750 [~~\$500~~];

23 (3) [~~(2)~~] a Class A misdemeanor if:

24 (A) the value of the telecommunications service
25 obtained or attempted to be obtained is \$750 [~~\$500~~] or more but less
26 than \$2,500 [~~\$1,500~~]; or

27 (B) the value of the telecommunications service
28 obtained or attempted to be obtained is less than \$750 [~~\$500~~] and
29 the defendant has been previously convicted of an offense under
30 this chapter;

31 (4) [~~(3)~~] a state jail felony if:

1 (A) the value of the telecommunications service
2 obtained or attempted to be obtained is \$2,500 [~~\$1,500~~] or more but
3 less than \$30,000 [~~\$20,000~~]; or

4 (B) the value of the telecommunications service
5 obtained or attempted to be obtained is less than \$2,500 [~~\$1,500~~]
6 and the defendant has been previously convicted two or more times of
7 an offense under this chapter;

8 (5) [~~(4)~~] a felony of the third degree if the value of
9 the telecommunications service obtained or attempted to be obtained
10 is \$30,000 [~~\$20,000~~] or more but less than \$150,000 [~~\$100,000~~];

11 (6) [~~(5)~~] a felony of the second degree if the value of
12 the telecommunications service obtained or attempted to be obtained
13 is \$150,000 [~~\$100,000~~] or more but less than \$300,000 [~~\$200,000~~];
14 or

15 (7) [~~(6)~~] a felony of the first degree if the value of
16 the telecommunications service obtained or attempted to be obtained
17 is \$300,000 [~~\$200,000~~] or more.

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

20 (e) An offense under this section is:

21 (1) a state jail felony if the value of the funds is
22 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

23 (2) a felony of the third degree if the value of the
24 funds is \$30,000 [~~\$20,000~~] or more but less than \$150,000
25 [~~\$100,000~~];

26 (3) a felony of the second degree if the value of the
27 funds is \$150,000 [~~\$100,000~~] or more but less than \$300,000
28 [~~\$200,000~~]; or

29 (4) a felony of the first degree if the value of the
30 funds is \$300,000 [~~\$200,000~~] or more.

31 SECTION _____. Section 35.02(c), Penal Code, is amended to

1 read as follows:

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

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

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

7 (3) a Class A misdemeanor if the value of the claim is
8 \$750 [~~\$500~~] or more but less than \$2,500 [~~\$1,500~~];

9 (4) a state jail felony if the value of the claim is
10 \$2,500 [~~\$1,500~~] or more but less than \$30,000 [~~\$20,000~~];

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

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

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

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

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

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

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

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

31 (b) An offense under this section is:

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

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

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

15 (4) a state jail felony 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 \$2,500 [~~\$1,500~~] or more but less than \$30,000
20 [~~\$20,000~~];

21 (B) the offense is committed under Subsection
22 (a)(11); or

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

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

27 (A) the amount of any payment or the value of any
28 monetary or in-kind benefit provided or claim for payment made
29 under the Medicaid program, directly or indirectly, as a result of
30 the conduct is \$30,000 [~~\$20,000~~] or more but less than \$150,000
31 [~~\$100,000~~]; or

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

5 (6) a felony of the second 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 \$150,000 [~~\$100,000~~] or more but less than \$300,000
10 [~~\$200,000~~]; or

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

15 (7) a felony of the first degree if the amount of any
16 payment or the value of any monetary or in-kind benefit provided or
17 claim for payment made under the Medicaid program, directly or
18 indirectly, as a result of the conduct is \$300,000 [~~\$200,000~~] or
19 more.

20 SECTION _____. Section 39.02(c), Penal Code, is amended to
21 read as follows:

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

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

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

27 (3) a Class A misdemeanor if the value of the use of
28 the thing misused is \$750 [~~\$500~~] or more but less than \$2,500
29 [~~\$1,500~~];

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

1 [~~\$20,000~~];

2 (5) a felony of the third degree if the value of the
3 use of the thing misused is \$30,000 [~~\$20,000~~] or more but less than
4 \$150,000 [~~\$100,000~~];

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

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

10 SECTION _____. (a) Except as provided by Subsection (b) of
11 this section, the changes in law made by this Act apply only to an
12 offense committed on or after the effective date of this Act. An
13 offense committed before the effective date of this Act is governed
14 by the law in effect on the date the offense was committed, and the
15 former law is continued in effect for that purpose. For purposes of
16 this subsection, an offense was committed before the effective date
17 of this Act if any element of the offense occurred before that date.

18 (b) The change in law made by Section 311.035, Government
19 Code, as added by this Act, applies only to a criminal proceeding
20 that commences on or after the effective date of this Act. A
21 criminal proceeding that commences before the effective date of
22 this Act is governed by the law in effect on the date the proceeding
23 commenced, and the former law is continued in effect for that
24 purpose.

ADOPTED

FLOOR AMENDMENT NO. 3

MAY 27 2015

Atty Gen
Secretary of the Senate

BY: Kommi Burton

1 Amend H.B. No. 1396 (senate committee printing) by adding
2 the following appropriately numbered SECTION to the bill and
3 renumbering subsequent SECTIONS of the bill accordingly:

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

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

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

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1396 by Workman (Relating 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.), **As Passed 2nd House**

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 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, KJo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 22, 2015

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1396** by Workman (Relating 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.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the construction of certain statutes that create or define criminal offenses and penalties. Under the provisions of the bill, a commission would be created to review all penal laws other than criminal offenses. 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. This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

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

Source Agencies: 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor

LBB Staff: UP, LBe, KJo, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

April 14, 2015

TO: Honorable Abel Herrero, Chair, House Committee on Criminal Jurisprudence

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB1396 by Workman (Relating to strict construction of certain statutes that create or define criminal offenses and penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the construction of certain statutes that create or define criminal offenses and penalties. This analysis assumes implementing the provisions of the bill would not result in a significant impact on state correctional agencies.

Local Government Impact

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

Source Agencies:

LBB Staff: UP, KJo, LM

**LEGISLATIVE BUDGET BOARD
Austin, Texas**

CRIMINAL JUSTICE IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 28, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: **HB1396** by Workman (Relating 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.), **As Passed 2nd House**

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