

BILL ANALYSIS

C.S.H.B. 1530
By: Peña
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Interested parties contend that current state law fails to reflect more than two decades of inflation with respect to property crimes, including theft, graffiti, and criminal mischief. C.S.H.B. 1530 seeks to update the property offense threshold for certain offenses and to ensure that the offenses are treated in the manner intended by the legislature, prosecuting less serious offenses in county courts and more serious cases in district courts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1530 amends the Penal Code to increase the threshold amounts of pecuniary loss resulting from an offense of criminal mischief, interference with railroad property, and graffiti that are used to determine the penalty grade for such an offense. The bill creates a Class C misdemeanor graffiti offense when the amount of pecuniary loss resulting from the offense is less than \$100 and increases the established threshold amounts of pecuniary loss resulting from arson, criminal mischief, and other property damage or destruction-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in statutory provisions regarding those offenses.

C.S.H.B. 1530 increases the threshold amounts of the monetary value of property or service stolen or the value of merchandise involved in the activity resulting from an offense of theft, theft of service, and organized retail theft, respectively, that are used to determine the penalty grade for such an offense and removes alternative threshold amounts of the monetary value of property stolen applicable in circumstances in which the defendant obtains the property by issuing or passing a check or similar sight order in a specified manner that are used to determine the penalty grade for an offense of theft. The bill creates a Class C misdemeanor organized retail theft offense when the total value of merchandise involved in the activity is less than \$100, provides for the enhancement of that offense under certain conditions, and increases the established threshold amounts of the value of stolen property or service resulting from theft-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in theft-related statutory provisions.

C.S.H.B. 1530 increases the threshold amounts of the retail value of an item or service or the

value of property, a motor vehicle, a benefit, a service, or pecuniary interest, or amount of credit, or proceeds or a record of a sale, as applicable, involved in the offense, that are used to determine the penalty grade for the following fraud offenses: trademark counterfeiting, false statement to obtain property or credit or in the provision of certain services, hindering secured creditors, fraudulent transfer of a motor vehicle, credit card transaction record laundering, illegal recruitment of an athlete, misapplication of fiduciary property or financial institution property, and securing execution of a document by deception. The bill creates first degree felony and second degree felony fraudulent transfer of a motor vehicle offenses and establishes the threshold amounts of the value of a motor vehicle associated with each such penalty grade. The bill increases the established threshold amounts of value of a property or service involved in fraud-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in fraud-related statutory provisions.

C.S.H.B. 1530 increases the threshold amounts of the aggregate amount involved in a breach of computer security offense committed with intent to defraud or harm another or alter, damage, or delete property used to determine the penalty grade for such an offense and creates a Class C, Class B, and Class A misdemeanor breach of security offense committed with that intent and establishes the threshold amounts associated with each such penalty grade. The bill increases the threshold amounts of the value of telecommunications service used, diverted, obtained, or attempted to be obtained in the commission of an unauthorized use or theft of telecommunications service offense, as applicable, used to determine the penalty grade for such an offense and creates a Class C misdemeanor for both offenses and establishes the threshold amounts of the telecommunications service value associated with each such penalty grade.

C.S.H.B. 1530 increases the threshold amounts of the value of funds, value of a claim, the amount of certain Medicaid-related payments, benefits or claims, and value of the use of the thing misused, as applicable, involved in the commission of an offense of money laundering, insurance fraud, Medicaid fraud, and abuse of official capacity by a public servant used to determine the penalty grade for such an offense. The bill increases the established threshold amounts of the value of a good or service that is the subject of a claim under insurance fraud statutory provisions relating to the value of the claim if the good or service has value that cannot be reasonably ascertained by criteria set forth in such provisions.

C.S.H.B. 1530 amends the Code of Criminal Procedure to include a person charged with committing a Class A misdemeanor graffiti offense among the persons to whom a peace officer is authorized to issue a citation containing notice to appear before a magistrate instead of taking the person before a magistrate.

EFFECTIVE DATE

September 1, 2015.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1530 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Sections 28.03(b), (f), (h), and (j), Penal Code, are amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 28.06(d), Penal Code, is amended.	SECTION 2. Same as introduced version.

SECTION 3. Section 28.07(e), Penal Code, is amended.

SECTION 4. Sections 28.08(b) and (d), Penal Code, are amended.

SECTION 5. Article 14.06(d), Code of Criminal Procedure, is amended.

SECTION 6. 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:

(A) \$100 [~~\$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:

(i) \$100 [~~\$50~~] or more but less than \$750 [~~\$500~~]; or

(ii) \$20 or more but less than \$750 [~~\$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:

(i) \$100 [~~\$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~~];

(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

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.

SECTION 5. Same as introduced version.

SECTION 6. 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~~];

(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~~];

(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

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

SECTION 7. Sections 31.04(b) and (e), Penal Code, are amended.

SECTION 8. Section 31.08(c), Penal Code, is amended.

SECTION 9. Sections 31.16(c) and (d), Penal Code, are amended.

SECTION 10. Section 32.02(c), Penal

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~~];

(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

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

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

Code, is amended.

SECTION 11. Section 32.23(e), Penal Code, is amended.

SECTION 11. Same as introduced version.

SECTION 12. Section 32.32(c), Penal Code, is amended.

SECTION 12. Same as introduced version.

SECTION 13. Sections 32.33(d) and (e), Penal Code, are amended.

SECTION 13. Same as introduced version.

SECTION 14. Section 32.34(f), Penal Code, is amended.

SECTION 14. Same as introduced version.

SECTION 15. Section 32.35(e), Penal Code, is amended.

SECTION 15. Same as introduced version.

SECTION 16. Section 32.441(e), Penal Code, is amended.

SECTION 16. Same as introduced version.

SECTION 17. Section 32.45(c), Penal Code, is amended.

SECTION 17. Same as introduced version.

SECTION 18. Section 32.46(b), Penal Code, is amended.

SECTION 18. Same as introduced version.

SECTION 19. Section 33.02(b-2), Penal Code, is amended.

SECTION 19. Same as introduced version.

SECTION 20. Section 33A.02(b), Penal Code, is amended.

SECTION 20. Same as introduced version.

SECTION 21. Section 33A.04(b), Penal Code, is amended.

SECTION 21. Same as introduced version.

SECTION 22. Section 34.02(e), Penal Code, is amended.

SECTION 22. Same as introduced version.

SECTION 23. Section 35.02(c), Penal Code, is amended.

SECTION 23. Same as introduced version.

SECTION 24. Section 35.025(b), Penal Code, is amended.

SECTION 24. Same as introduced version.

SECTION 25. Section 35A.02(b), Penal Code, is amended.

SECTION 25. Same as introduced version.

SECTION 26. Section 39.02(c), Penal Code, is amended.

SECTION 26. Same as introduced version.

SECTION 27. 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

SECTION 27. Same as introduced version.

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 section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 28. This Act takes effect September 1, 2015.

SECTION 28. Same as introduced version.