

BILL ANALYSIS

Senate Research Center
88R1277 MEW-D

H.B. 2129
By: Burns; Thierry (Hinojosa)
Jurisprudence
5/16/2023
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The problem of retail theft creates a significant drain on both public and private resources. It causes losses for business, increases prices for everyday consumers, and creates costs for the criminal justice system that must arrest, prosecute, and detain low-level offenders.

For decades, law enforcement professionals have understood that all crimes—low-level offenses included—feed a cycle of disinvestment and disorder, especially in high crime, high poverty, and underserved communities. Shoplifting erodes profits, businesses suffer, and neighborhoods lose safe and convenient places where community members have access to quality goods and services.

Approximately 25 percent of shoplifters are kids, while 55 percent of adult shoplifters say they started shoplifting in their teens, proving that early intervention is critical to improved recidivism.

H.B. 2129 seeks to address this issue by authorizing a merchant to offer a person suspected of committing or attempting to commit theft an opportunity to complete a theft education program in lieu of being reported to a law enforcement agency.

H.B. 2129 amends current law relating to a merchant allowing a person suspected of committing or attempting to commit theft to complete a theft education program.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 124.001, Civil Practice and Remedies Code, as follows:

Sec. 124.001. New heading: SUSPECTED THEFT OF PROPERTY OR ATTEMPTED THEFT OF PROPERTY. (a) Creates this subsection from existing text.

(b) Provides that a person who is in the business of selling goods or services as a merchant is not precluded from offering a person who is suspected of stealing or attempting to steal property from the merchant an opportunity to complete a theft education program under Section 124.002 to deter theft and address criminal behavior instead of reporting the suspected offense to a law enforcement agency.

(c) Requires a merchant who offers a person an opportunity to complete a theft education program to:

(1) notify the person of that opportunity;

(2) inform the person of the civil and criminal remedies available to the merchant and the state, including informing the person that the merchant

retains the right to report the suspected offense to a law enforcement agency if the person does not successfully complete the program; and

(3) maintain records for a period of not less than two years of:

(A) any criteria used by the merchant in determining whether to offer a person the opportunity to complete a theft education program;

(B) the terms of each offer made; and

(C) the name of each person to whom the merchant made an offer.

(d) Requires a merchant to make records maintained under Subsection (c)(3) available to a district attorney, criminal district attorney, or county attorney on request.

(e) Provides that nothing in this section precludes a peace officer, district attorney, criminal district attorney, county attorney, or judge from offering a person a theft education program under Section 124.002 in compliance with Chapter 124 (Privilege to Investigate Theft).

SECTION 2. Amends Chapter 124, Civil Practices and Remedies Code, by adding Sections 124.002 and 124.003, as follows:

Sec. 124.002. THEFT EDUCATION PROGRAM. (a) Requires that a theft education program for a person who is suspected of stealing or attempting to steal property under Section 124.001:

(1) address the type of alleged criminal offense;

(2) seek to modify the person's behavioral decision-making process;

(3) engage the person with interactive exercises designed to instill appropriate societal behavior; and

(4) promote accountability and reconciliation between the person and the merchant.

(b) Prohibits a provider of a theft education program from discriminating against a person who is otherwise eligible to participate in the program based on:

(1) the person's race, color, religion, sex, familial status, or national origin;
or

(2) the person's ability to pay.

(c) Provides that a program provider that charges a fee for participation in a theft education program:

(1) is required to develop a plan to offer discounts, alternative payment schedules, or scholarship funds to a person who the provider has verified is indigent;

(2) is authorized to reduce or waive the fee for the program based on the ability to pay of a person described by Subdivision (1); and

(3) is prohibited from compensating a merchant who offers a person the opportunity to complete the program.

(d) Prohibits a person from being required to make an admission of guilt to participate in a theft education program.

(e) Prohibits a person who successfully completes a theft education program under this section, notwithstanding any other law, from being subject to any additional civil penalties under any other provision of law.

Sec. 124.003. IMMUNITY FROM CRIMINAL AND CIVIL LIABILITY. Provides that a person who offers or provides a theft education program in compliance with this chapter is not criminally or civilly liable for failure to notify a law enforcement agency of the suspected theft or attempted theft.

SECTION 3. Effective date: upon passage or September 1, 2023.