

## **BILL ANALYSIS**

Senate Research Center

H.B. 2524  
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### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

It has been reported that some companies face difficulty in notifying customers regarding a failure to pay for services rendered under a service agreement or a failure to return property held under a rental agreement. H.B. 2524 seeks to address this issue by revising certain notification procedures related to the criminal offense of theft of service.

H.B. 2524 amends the Penal Code to revise the conduct for which intent to avoid payment is presumed for the application of the offense of theft of service by specifying that such intent is presumed if the actor failed to return property held under a rental agreement within three days after receiving a notice demanding return for property that is valued at \$2,500 or more but less than \$10,000 and by establishing that such intent is presumed if the actor failed to return property within two days after receiving notice demanding return for property that is valued at \$10,000 or more.

H.B. 2524 authorizes the delivery of a notice demanding payment or return of property to be made by commercial delivery service as an alternative to delivery by registered or certified mail. The bill revises the date on which it is presumed that written notice sent by registered or certified mail or commercial delivery service was delivered by changing that date from five days after the notice was sent to two days after the notice was sent.

H.B. 2524 amends current law relating to the prosecution of the criminal offense of theft of service.

### **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 Sections 31.04(b), (c), and (d), Penal Code, as follows:

(b) Provides that, for purposes of this section (Theft of Service), intent to avoid payment is presumed if:

(1)–(3) makes no changes to these subdivisions; or

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

(A) makes a nonsubstantive changes to this paragraph;

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

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

(c) Makes nonsubstantive changes. Requires the notice, for purposes of Subsections (a)(4) (relating to providing that a person commits theft of service if, with intent to avoid payment for service that the actual service is provided only for compensation, the actor intentionally or knowingly secures the performance of the service by agreeing to provide compensation and, after the service is rendered, fails to make full payment, after receiving notice demanding payment), (b)(2), and (b)(4), to be:

(1) in writing, rather than notice in writing;

(2) sent by:

(A) creates this paragraph from existing text and makes a nonsubstantive change; or

(B) commercial delivery service with proof of receipt by the actor, rather than or by telegram with report of delivery requested; and

(C) sent to the actor using the actor's mailing address shown on the rental agreement or service agreement, rather than addressed to the actor at his address shown on the rental agreement or service agreement.

(d) Provides that, if written notice is given in accordance with Subsection (c), it is presumed that the notice was received not later than two days after the notice was sent, rather than providing that, if written notice is given in accordance with Subsection (c), it is presumed that the notice was received no later than five days after it was sent.

SECTION 2. Amends Section 31.04, Penal Code, by amending Subsection (d-1) and adding Subsections (d-2) and (d-3), as follows:

(d-1) Provides that, for purposes of Subsection (a)(2) (relating to providing that a person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation having control over the disposition of services of another to which the actor is not entitled, the actor intentionally or knowingly diverts the other's services to the actor's own benefit or to the benefit of another not entitled to the services), the diversion of services to the benefit of a person who is not entitled to those services includes the disposition of personal property by an actor having control of the property under an agreement described by Subsections (d-2)(1)-(3), if the actor disposes of the property in violation of the terms of the agreement and to the benefit of any person who is not entitled to the property.

(d-2) Provides that, for purposes of Subsection (a)(3) (relating to providing that a person commits theft of service if, with intent to avoid payment for service that the actor knows is provided only for compensation having control of personal property under a written rental agreement, the actor holds the property beyond the expiration of the rental period without the effective consent of the owner of the property, thereby depriving the owner of the property of its use in further rentals), the term "written rental agreement" does not include an agreement that:

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

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

(3) permits the individual to become the owner of the property.

(d-3) Creates this subsection from existing text and makes no further changes.

SECTION 3. Makes application of this Act prospective. Provides that, 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 4. Effective date: September 1, 2019.