

By: West

S.B. No. 36

A BILL TO BE ENTITLED

AN ACT

relating to creating the criminal offenses of real property theft and real property fraud and establishing a statute of limitations for those offenses; harmonizing other statute of limitations provisions; increasing a criminal penalty.

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

SECTION 1. Article 12.01, Code of Criminal Procedure, as amended by H.B. 1778, S.B. 127, and S.B. 2798, Acts of the 89th Legislature, Regular Session, 2025, and effective September 1, 2025, is reenacted and amended to read as follows:

Art. 12.01. FELONIES. Except as provided in Articles 12.015 and 12.03, felony indictments may be presented within these limits, and not afterward:

(1) no limitation:

(A) murder and manslaughter;

(B) sexual assault under Section 22.011(a)(2), Penal Code, or aggravated sexual assault under Section 22.021(a)(1)(B), Penal Code;

(C) sexual assault, if:

(i) during the investigation of the offense biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been subjected to forensic DNA

1 testing and the testing results show that the matter does not match
2 the victim or any other person whose identity is readily
3 ascertained; or

4 (ii) probable cause exists to believe that
5 the defendant has committed the same or a similar sex offense
6 against five or more victims;

7 (D) continuous sexual abuse of young child or
8 disabled individual under Section 21.02, Penal Code;

9 (E) indecency with a child under Section 21.11,
10 Penal Code;

11 (F) an offense involving leaving the scene of a
12 collision under Section 550.021, Transportation Code, if the
13 collision resulted in the death of a person;

14 (G) trafficking of persons under Section
15 20A.02(a)(7) or (8), Penal Code;

16 (H) continuous trafficking of persons under
17 Section 20A.03, Penal Code;

18 (I) compelling prostitution under Section
19 43.05(a)(2) or (3), Penal Code;

20 (J) tampering with physical evidence under
21 Section 37.09(a)(1) or (d)(1), Penal Code, if:

22 (i) the evidence tampered with is a human
23 corpse, as defined by that section; or

24 (ii) the investigation of the offense shows
25 that a reasonable person in the position of the defendant at the
26 time of the commission of the offense would have cause to believe
27 that the evidence tampered with is related to a criminal homicide

under Chapter 19, Penal Code;

(K) interference with child custody under Section 25.03(a)(3), Penal Code;

(L) burglary under Section 30.02, Penal Code, if:

(i) the offense is punishable under Subsection (d) of that section because the defendant entered a habitation with the intent to commit an offense under Section 22.011 or 22.021, Penal Code; and

(ii) during the investigation of the offense biological matter is collected and the matter:

(a) has not yet been subjected to forensic DNA testing; or

(b) has been subjected to forensic DNA testing and the testing results show that the matter does not match the victim or any other person whose identity is readily ascertained;

(M) failure to stop or report sexual or assaultive offense against child under Section 38.17, Penal Code;

or

(N) continuous promotion of prostitution under Section 43.032, Penal Code;

(2) ten years from the date of the commission of the offense:

(A) theft of any estate, real, personal or mixed, by an executor, administrator, guardian or trustee, with intent to defraud any creditor, heir, legatee, ward, distributee, beneficiary or settlor of a trust interested in such estate;

(B) theft by a public servant of government property over which the public servant exercises control in the public servant's official capacity;

(C) forgery or the uttering, using, or passing of forged instruments;

(D) injury to an elderly or disabled individual punishable as a felony of the first degree under Section 22.04, Penal Code;

(E) sexual assault, except as provided by Subdivision (1) or (10) [~~(9)~~];

(F) arson;

(G) trafficking of persons under Section 20A.02(a)(1), (2), (3), or (4), Penal Code; [~~or~~]

(H) compelling prostitution under Section 43.05(a)(1), Penal Code;

(I) real estate theft under Section 31.23, Penal Code; or

(J) real estate fraud under Section 32.60, Penal Code;

(3) seven years from the date of the commission of the offense:

(A) an offense under Chapter 32, Penal Code, except as provided by Subdivision (2)(C) or (J);

(B) a felony violation under Chapter 162, Tax Code;

(C) money laundering;

(D) health care fraud under Section 35A.02, Penal

1 Code;

2 (E) bigamy under Section 25.01, Penal Code,

3 except as provided by Subdivision (7); or

4 (F) possession or promotion of child pornography

5 under Section 43.26, Penal Code;

6 (4) five years from the date of the commission of the

7 offense:

8 (A) theft or robbery;

9 (B) except as provided by Subdivision (5),

10 kidnapping;

11 (C) except as provided by Subdivision (1) or (5),

12 burglary;

13 (D) injury to an elderly or disabled individual

14 that is not punishable as a felony of the first degree under Section

15 22.04, Penal Code;

16 (E) abandoning or endangering an elderly or

17 disabled individual;

18 (F) insurance fraud;

19 (G) assault under Section 22.01, Penal Code, if

20 the assault was committed against a person whose relationship to or

21 association with the defendant is described by Section 71.0021(b),

22 71.003, or 71.005, Family Code;

23 (H) continuous violence against the family under

24 Section 25.11, Penal Code; or

25 (I) aggravated assault under Section 22.02,

26 Penal Code;

27 (5) if the investigation of the offense shows that the

victim is younger than 17 years of age at the time the offense is committed, 20 years from the 18th birthday of the victim of one of the following offenses:

(A) kidnapping under Section 20.03, Penal Code, or aggravated kidnapping under Section 20.04, Penal Code; or

(B) subject to Subdivision (1)(L), burglary under Section 30.02, Penal Code, if the offense is punishable under Subsection (d) of that section because the defendant entered a habitation with the intent to commit an offense described by Subdivision (1)(B) or (D) of this article or Paragraph (A) of this subdivision;

(6) 20 years from the 18th birthday of the victim of one of the following offenses:

(A) trafficking of a child under Section 20A.02(a)(5) or (6), Penal Code; or

(B) sexual performance by a child under Section 43.25, Penal Code;

(7) ten years from the 18th birthday of the victim of the offense:

(A) injury to a child under Section 22.04, Penal Code;

(B) bigamy under Section 25.01, Penal Code, if the investigation of the offense shows that the person, other than the legal spouse of the defendant, whom the defendant marries or purports to marry or with whom the defendant lives under the appearance of being married is younger than 18 years of age at the time the offense is committed; or

(C) abandoning or endangering a child;

(8) ten years from the date the offense was discovered: trafficking of a disabled individual under Section 20A.02(a)(5) or (6), Penal Code;

(9) four years from the date the offense was discovered: failure to report child abuse or neglect if the offense is punishable as a state jail felony under Section 261.109(c), Family Code;

(10) two years from the date the offense was discovered: sexual assault punishable as a state jail felony under Section 22.011(f)(2), Penal Code; or

(11) three years from the date of the commission of the offense: all other felonies.

SECTION 2. Title 1, Code of Criminal Procedure, is amended by adding Chapter 5C to read as follows:

CHAPTER 5C. PROCEDURES FOR REAL PROPERTY THEFT AND FRAUD

Art. 5C.001. VERDICT; JUDGMENT. (a) If an offense under Section 31.23 or Section 32.60, Penal Code, involves more than one parcel of real property:

(1) for a case determined by a trial by jury:

(A) the verdict form shall clearly identify each parcel of real property by street address or legal description of the real property;

(B) the jury foreperson shall indicate whether the jury unanimously finds that the parcel of real property is included in the conduct constituting the offense; and

(C) the judgment must reflect the jury's verdict

for each parcel of real property that the jury unanimously finds to be included in the conduct constituting the offense;

(2) for a case determined by a judge without a jury:

(A) the judge in rendering the verdict shall state, for each parcel of real property, whether the judge finds the property to be included in the conduct constituting the offense; and

(B) the judgment must reflect the judge's finding for each parcel of real property that the judge finds to be included in the conduct constituting the offense; and

(3) for a case determined based on the defendant's plea, if the indictment does not clearly identify each parcel of real property alleged to be included in the conduct constituting the offense, the prosecutor shall provide that information to the court. The court shall include the information in the judgment.

(b) A judgment of conviction entered for an offense under Section 31.23 or Section 32.60, Penal Code, must include:

(1) the street address or legal description of the real property; and

(2) for each document that relates to the real property that is the subject of the offense and that is recorded in the real property records of the county, the identifying reference number assigned to that document by the county clerk.

Art. 5C.002. JUDGMENT TO BE FILED WITH COUNTY CLERK. Not later than the 10th day after the date the court enters a judgment for an offense under Section 31.23 or Section 32.60, Penal Code, the prosecutor or the court clerk, as determined by local court rule,

1 shall file with the county clerk:

2 (1) a certified copy of the judgment for recording in
3 the real property records of the county where the real property that
4 is the subject of the offense is located;

5 (2) a statement explaining the filing; and

6 (3) if the judgment does not comply with Article
7 5C.001(b), a certified copy of the indictment.

8 Art. 5C.003. EFFECT OF NONCOMPLIANCE ON JUDGMENT. A
9 judgment for an offense under Section 31.23 or Section 32.60, Penal
10 Code, is not invalid solely because the judgment fails to comply
11 with Article 5C.001(b) or 5C.002.

12 SECTION 3. Chapter 42, Code of Criminal Procedure, is
13 amended by adding Article 42.0376 to read as follows:

14 Art. 42.0376. RESTITUTION FOR REAL PROPERTY THEFT. (a)
15 Except as provided by Subsection (b) and subject to Subsection (c),
16 the court shall order a defendant convicted of or placed on deferred
17 adjudication community supervision for an offense under Section
18 31.23, Penal Code, to pay restitution, as applicable:

19 (1) for an offense under Section 31.23(b)(1), to the
20 owner of the real property or nonpossessory interest in real
21 property that is the subject of the offense in an amount equal to
22 the value of the real property or nonpossessory interest;

23 (2) for an offense under Section 31.23(b)(2), to the
24 owner of the benefit that is the subject of the offense in an amount
25 equal to the value of the benefit;

26 (3) to a title company or insurer that paid a claim
27 based on the conduct constituting the offense, in an amount equal to

1 the value of the payment made by the title company or insurer; or

2 (4) to the owner of the real property or nonpossessory
3 interest in real property or the owner of the benefit in an amount
4 equal to, as applicable:

5 (A) the value of losses incurred as the result of
6 the conduct constituting the offense, including loss of personal
7 property located on or in the real property that is the subject of
8 the offense;

9 (B) the cost of repairing damage caused by or
10 resulting from the conduct constituting the offense; or

11 (C) reasonable attorney's fees and court costs
12 related to an action brought to quiet title to or dispute the
13 conveyance or possession of the real property that is the subject of
14 the offense.

15 (b) The court may not order a defendant convicted of an
16 offense under Section 31.23(b)(1), Penal Code, to pay restitution
17 if, before judgment is entered in the case, the defendant:

18 (1) is listed in the county real property records as
19 the owner of the real property or nonpossessory interest in real
20 property that is the subject of the offense;

21 (2) executes a quitclaim deed or other instrument
22 conveying the title or interest to the owner of the property or
23 interest;

24 (3) files for recording in the county real property
25 records a copy of the quitclaim deed or other instrument; and

26 (4) files a certified copy of the recorded quitclaim
27 deed or other instrument with the court.

1 (c) The court shall reduce the amount of restitution that a
2 defendant is ordered to pay under this article by an amount equal to
3 the value of a payment made by a title company or insurer for a claim
4 based on the conduct constituting the offense to the person to whom
5 the court orders the defendant to pay restitution.

6 SECTION 4. Chapter 31, Penal Code, is amended by adding
7 Section 31.23 to read as follows:

8 Sec. 31.23. REAL PROPERTY THEFT. (a) In this section:

9 (1) "Nonpossessory interest" includes an interest
10 that may be conveyed by a quitclaim deed or conditional transfer.

11 (2) "Owner" includes an owner's estate and known
12 successors in interest if the owner is deceased.

13 (3) "Transfer" has the meaning assigned by Section
14 12.019, Property Code.

15 (b) A person commits an offense if the person:

16 (1) brings about or attempts to bring about a transfer
17 or purported transfer of real property or title to real property or
18 a nonpossessory interest in real property, to any transferee or
19 intended transferee:

20 (A) without the effective consent of the owner of
21 the real property or the nonpossessory interest in real property;
22 and

23 (B) with the intent to deprive the owner of the
24 real property or the nonpossessory interest in the real property;
25 or

26 (2) sells or otherwise transfers or encumbers, or
27 attempts to sell or otherwise transfer or encumber, real property

or title to real property or a nonpossessory interest in real property to or with respect to a person in exchange for a benefit from any person:

(A) without the effective consent of the owner of the benefit; and

(B) with the intent to deprive the owner of the benefit.

(c) Except as provided by Subsection (e), an offense under Subsection (b)(1) is:

(1) a felony of the second degree if it is shown on the trial of the offense that the market value of the real property is less than \$300,000; or

(2) a felony of the first degree if it is shown on the trial of the offense that the market value of the real property is \$300,000 or more.

(d) Except as provided by Subsection (e), an offense under Subsection (b)(2) is:

(1) a felony of the third degree if it is shown on the trial of the offense that the value of the benefit received is less than \$30,000;

(2) a felony of the second degree if it is shown on the trial of the offense that the value of the benefit received is \$30,000 or more but less than \$150,000; or

(3) a felony of the first degree if it is shown on the trial of the offense that the value of the benefit received is \$150,000 or more.

(e) An offense described for purposes of punishment by

Subsections (c) and (d) is increased to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense:

(1) the owner of the real property or nonpossessory interest in real property or the owner of the benefit was:

(A) a person 65 years of age or older; or

(B) a nonprofit organization; or

(2) the real property was subject to a property tax exemption under Subchapter B, Chapter 11, Tax Code, as an individual's residence homestead as defined by Section 11.13(j), Tax Code.

(f) For purposes of Subsection (c), the market value of real property is the market value of that property for the tax year in which the offense was committed, as indicated on the appraisal roll for the appraisal district in which the property is located.

(g) If conduct that constitutes an offense under this section also constitutes an offense under another law, the actor may be prosecuted under this section, the other law, or both.

SECTION 5. Subchapter D, Chapter 32, Penal Code, is amended by adding Section 32.60 to read as follows:

Sec. 32.60. REAL PROPERTY FRAUD. (a) In this section:

(1) "Deception" has the meaning assigned by Section 31.01.

(2) "Document" and "effective consent" have the meanings assigned by Section 32.46.

(b) A person commits an offense if the person:

(1) intentionally or knowingly makes a materially

false or misleading written statement to obtain real property; or

(2) with the intent to defraud or harm any person:

(A) causes another person, without that person's effective consent, to sign or execute any document affecting real property or any person's interest in real property; or

(B) causes a public servant, without the public servant's effective consent, to file or record any purported judgment or other document purporting to memorialize or evidence:

(i) title to real property or any person's interest in real property; or

(ii) a lien or claim against real property or against any person's interest in real property.

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

(1) a felony of the second degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is less than \$300,000; or

(2) a felony of the first degree if it is shown on the trial of the offense that the market value of the real property or the value of the interest in the real property is \$300,000 or more.

(d) An offense described for purposes of punishment by Subsection (b) is increased to the next higher category of offense if it is shown on the trial of the offense that at the time of the offense:

(1) the owner of the real property was:

(A) a person 65 years of age or older; or

1 (B) a nonprofit organization; or

2 (2) the real property was subject to a property tax
3 exemption under Subchapter B, Chapter 11, Tax Code, as an
4 individual's residence homestead as defined by Section 11.13(j),
5 Tax Code.

6 (e) For purposes of Subsection (c), the market value of real
7 property is the market value of that property for the tax year in
8 which the offense was committed, as indicated on the appraisal roll
9 for the appraisal district in which the property is located.

10 SECTION 6. Section 37.101(b), Penal Code, is amended to
11 read as follows:

12 (b) An offense under Subsection (a)(1) is a felony of the
13 third degree, unless it is shown on the trial of the offense that
14 the person had previously been convicted under this section on two
15 or more occasions, in which event the offense is a felony of the
16 second degree. An offense under Subsection (a)(2) or (a)(3) is a
17 state jail felony [~~Class A misdemeanor~~], unless the person commits
18 the offense with the intent to defraud or harm another, in which
19 event the offense is a [~~state jail~~] felony of the third degree.

20 SECTION 7. The changes in law made by this Act apply only to
21 an offense committed on or after the effective date of this Act. An
22 offense committed before the effective date of this Act is governed
23 by the law in effect on the date the offense was committed, and the
24 former law is continued in effect for that purpose. For purposes
25 of this section, an offense was committed before the effective date
26 of this Act if any element of the offense was committed before that
27 date.

1 SECTION 8. The changes in law made by this Act in amending
2 Article [12.01](#), Code of Criminal Procedure, do not apply to an
3 offense if the prosecution of that offense becomes barred by
4 limitation before the effective date of this Act. The prosecution
5 of that offense remains barred as if this Act had not taken effect.

6 SECTION 9. This Act takes effect on the 91st day after the
7 last day of the legislative session.