

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas  
2 82nd General Assembly  
3 Regular Session, 1999

# A Bill

HOUSE BILL 2080

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5 By: Representatives Agee, Bevis, Booker, Cleveland, Creekmore, Dees, Duggar, Faris, Ferrell, Gillespie,  
6 Gullett, Hale, Hathorn, Jacobs, Jones, Judy, J. Lewellen, Luker, Milum, Minton, Morris, Oglesby, Parks,  
7 Prater, Shoffner, M. Smith, T. Thomas, Vess, W. Walker, Willis

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## For An Act To Be Entitled

11 "AN ACT TO AMEND ARKANSAS CODE 5-36-104, REGARDING THE  
12 THEFT OF SERVICES, TO REQUIRE RESTITUTION FOR THEFT OF  
13 SERVICES WHICH INVOLVE PUBLIC UTILITIES AND TO ENHANCE  
14 THE PENALTIES WHERE THE THEFT OF SERVICES RESULTS IN  
15 ENVIRONMENTAL CONTAMINATION; AND FOR OTHER PURPOSES. "

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## Subtitle

18 "TO REQUIRE RESTITUTION FOR THEFT OF  
19 SERVICES WHICH INVOLVE PUBLIC UTILITIES  
20 AND TO ENHANCE THE PENALTIES WHERE THE  
21 THEFT RESULTS IN ENVIRONMENTAL  
22 CONTAMINATION. "

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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SECTION 1. Arkansas Code § 5-36-104 is amended to read as follows:

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"5-36-104. Theft of services.

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(a) A person commits theft of services if, with purpose to defraud:

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(1) He purposely obtains services, which he knows to be available  
31 only for compensation, by deception, threat, or other means to avoid payment  
32 for such services; or

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(2) Having control over the disposition of services to which he  
34 is not entitled, he purposely diverts such services to his own benefit or to  
35 the benefit of another person not entitled to them.

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(b) In circumstances where payment is ordinarily made immediately upon

1 the rendering of service, absconding without payment or offer to pay shall  
 2 give rise to a presumption that the actor obtained the services with the  
 3 purpose of avoiding payment.

4 (c)(1) Theft of services is a Class B felony if:

5 (A) The value of the services is two thousand five hundred  
 6 dollars (\$2,500) or more; ~~or~~

7 (B) The services are obtained by the threat of serious  
 8 physical injury to any person or destruction of the occupiable structure of  
 9 another; ~~or~~

10 (C) The services are obtained by threat, and the actor  
 11 stands in a confidential or fiduciary relationship to the person threatened;  
 12 or

13 (D) The services involve theft of utility services which  
 14 results in any contamination of the lines, pipes, waterlines, meters, or other  
 15 utility property, or results in a spill, dumping, or release of any hazardous  
 16 materials into the environment.

17 (2) Theft of services is a Class C felony if:

18 (A) The value of the services is less than two thousand  
 19 five hundred dollars (\$2,500) but more than five hundred dollars (\$500); or

20 (B) The services are obtained by threat.

21 (3) Theft of services is a Class A misdemeanor if it involves a  
 22 theft of utility services which results in the destruction or damage to the  
 23 lines, pipes, waterlines, meters, or any other property of the utility of less  
 24 than five hundred dollars (\$500) in value.

25 ~~(3)(4)~~ Otherwise, theft of services is a Class A misdemeanor.

26 (d)(1) Any person found guilty of theft of services under this section  
 27 where the services involve the theft of a utility service such as gas,  
 28 electricity, water, telephone, or cable television services shall, in addition  
 29 to any other fines which may be levied under § 5-4-201, be required to make  
 30 full restitution to the utility from which the services were obtained.

31 (2) For prosecutions brought under this section to enable the  
 32 court to properly fix the amount of restitution, the prosecuting attorney  
 33 shall, after appropriate investigation, recommend an amount that would make  
 34 the utility whole with respect to the value of the services received, the cost  
 35 of repairs of any damage to any lines, pipes, waterlines, meters or other  
 36 utility property, and all other measurable monetary damages directly related

1 to the offense, including the expense of investigation.

2 (3) If the defendant disagrees with the recommendation of the  
3 prosecuting attorney, he shall be entitled to introduce evidence in mitigation  
4 of the amount recommended.

5 (4) The monetary judgment for restitution, as provided in this  
6 section, shall become a judgment against the offender and shall have the same  
7 force and effect as any other civil judgment recorded in this state."

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9 SECTION 2. All provisions of this act of a general and permanent nature  
10 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code  
11 Revision Commission shall incorporate the same in the Code.

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13 SECTION 3. If any provision of this act or the application thereof to  
14 any person or circumstance is held invalid, such invalidity shall not affect  
15 other provisions or applications of the act which can be given effect without  
16 the invalid provision or application, and to this end the provisions of this  
17 act are declared to be severable.

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19 SECTION 4. All laws and parts of laws in conflict with this act are  
20 hereby repealed.

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