

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 14-0833.01 Michael Dohr x4347

HOUSE BILL 14-1266

HOUSE SPONSORSHIP

McCann and Gardner,

SENATE SPONSORSHIP

Newell and King,

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary
Appropriations

A BILL FOR AN ACT

101 CONCERNING THE PENALTIES FOR CERTAIN VALUE-BASED OFFENSES,
102 AND, IN CONNECTION THEREWITH, REDUCING AN
103 APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Recently the penalties for theft changed based on the value of the loss. The bill changes the penalties for criminal mischief, fraud by check, defrauding a secured creditor, and unauthorized use of a financial transaction device and computer crime. The changes create new threshold

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 24, 2014

HOUSE
3rd Reading Unamended
April 7, 2014

HOUSE
Amended 2nd Reading
April 4, 2014

loss levels for a full range of penalties from a class 2 felony down to a petty offense or a low level misdemeanor.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 18-4-501, **amend** (1);
3 and **add** (4) as follows:

4 **18-4-501. Criminal mischief.** (1) A person ~~who~~ COMMITS
5 CRIMINAL MISCHIEF WHEN HE OR SHE knowingly damages the real or
6 personal property of one or more other persons, including property owned
7 by the person jointly with another person or property owned by the person
8 in which another person has a possessory or proprietary interest, in the
9 course of a single criminal episode. ~~commits a class 2 misdemeanor~~
10 ~~where the aggregate damage to the real or personal property is less than~~
11 ~~five hundred dollars. Where the aggregate damage to the real or personal~~
12 ~~property is five hundred dollars or more but less than one thousand~~
13 ~~dollars, the person commits a class 1 misdemeanor. Where the aggregate~~
14 ~~damage to the real or personal property is one thousand dollars or more~~
15 ~~but less than twenty thousand dollars, the person commits a class 4~~
16 ~~felony. Where the aggregate damage to the real or personal property is~~
17 ~~twenty thousand dollars or more, the person commits a class 3 felony.~~

18 (4) CRIMINAL MISCHIEF IS:

19 (a) A CLASS 3 MISDEMEANOR WHEN THE AGGREGATE DAMAGE TO
20 THE REAL OR PERSONAL PROPERTY IS LESS THAN THREE HUNDRED
21 DOLLARS;

22 (b) A CLASS 2 MISDEMEANOR WHEN THE AGGREGATE DAMAGE TO
23 THE REAL OR PERSONAL PROPERTY IS THREE HUNDRED DOLLARS OR MORE
24 BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;

25 (c) A CLASS 1 MISDEMEANOR WHEN THE AGGREGATE DAMAGE TO

1 THE REAL OR PERSONAL PROPERTY IS SEVEN HUNDRED FIFTY DOLLARS OR
2 MORE BUT LESS THAN ONE THOUSAND DOLLARS;

3 (d) A CLASS 6 FELONY WHEN THE AGGREGATE DAMAGE TO THE
4 REAL OR PERSONAL PROPERTY IS ONE THOUSAND DOLLARS OR MORE BUT
5 LESS THAN FIVE THOUSAND DOLLARS;

6 (e) A CLASS 5 FELONY WHEN THE AGGREGATE DAMAGE TO THE
7 REAL OR PERSONAL PROPERTY IS FIVE THOUSAND DOLLARS OR MORE BUT
8 LESS THAN TWENTY THOUSAND DOLLARS;

9 (f) A CLASS 4 FELONY WHEN THE AGGREGATE DAMAGE TO THE
10 REAL OR PERSONAL PROPERTY IS TWENTY THOUSAND DOLLARS OR MORE
11 BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;

12 (g) A CLASS 3 FELONY WHEN THE AGGREGATE DAMAGE TO THE
13 REAL OR PERSONAL PROPERTY IS ONE HUNDRED THOUSAND DOLLARS OR
14 MORE BUT LESS THAN ONE MILLION DOLLARS; AND

15 (h) A CLASS 2 FELONY WHEN THE AGGREGATE DAMAGE TO THE
16 REAL OR PERSONAL PROPERTY IS ONE MILLION DOLLARS OR MORE.

17 **SECTION 2.** In Colorado Revised Statutes, 18-5-205, **amend** (3)
18 as follows:

19 **18-5-205. Fraud by check - definitions - penalties.** (3) Fraud by
20 check is:

21 (a) (Deleted by amendment, L. 2007, p. 1693, § 8, effective July
22 1, 2007.)

23 (a.5) A CLASS 1 PETTY OFFENSE IF THE FRAUDULENT CHECK WAS
24 FOR THE SUM OF LESS THAN FIFTY DOLLARS OR IF THE OFFENDER IS
25 CONVICTED OF FRAUD BY CHECK INVOLVING THE ISSUANCE OF TWO OR
26 MORE CHECKS WITHIN A SIXTY-DAY PERIOD IN THE STATE OF COLORADO
27 TOTALING LESS THAN FIFTY DOLLARS IN THE AGGREGATE;

1 (a.7) A CLASS 3 MISDEMEANOR IF THE FRAUDULENT CHECK WAS
2 FOR THE SUM OF FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED
3 DOLLARS OR IF THE OFFENDER IS CONVICTED OF FRAUD BY CHECK
4 INVOLVING THE ISSUANCE OF TWO OR MORE CHECKS WITHIN A SIXTY-DAY
5 PERIOD IN THE STATE OF COLORADO TOTALING FIFTY DOLLARS OR MORE
6 BUT LESS THAN THREE HUNDRED DOLLARS IN THE AGGREGATE;

7 (b) A class 2 misdemeanor if the fraudulent check was for the sum
8 of ~~less than five~~ THREE hundred dollars or MORE BUT LESS THAN SEVEN
9 HUNDRED FIFTY DOLLARS OR if the offender is convicted of fraud by
10 check involving the issuance of two or more checks within a sixty-day
11 period in the state of Colorado totaling ~~less than five~~ THREE hundred
12 dollars OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS in the
13 aggregate; ~~A class 3 misdemeanor if the fraudulent check was for the sum~~
14 ~~of fifty dollars or more but less than three hundred dollars or if the~~
15 ~~offender is convicted of fraud by check involving the issuance of two or~~
16 ~~more checks within a sixty-day period in the state of Colorado totaling~~
17 ~~fifty dollars or more but less than three hundred dollars in the aggregate;~~

18 (b.5) ~~A class 1 misdemeanor if the fraudulent check was for the~~
19 ~~sum of five hundred dollars or more but less than one thousand dollars or~~
20 ~~if the offender is convicted of fraud by check involving the issuance of~~
21 ~~two or more checks within a sixty-day period in the state of Colorado~~
22 ~~totaling five hundred dollars or more but less than one thousand dollars~~
23 ~~in the aggregate;~~

24 (c) A class ~~6 felony~~ 1 MISDEMEANOR if the fraudulent check was
25 for the sum of ~~one thousand~~ SEVEN HUNDRED FIFTY dollars or more BUT
26 LESS THAN TWO THOUSAND DOLLARS or if the offender is convicted of
27 fraud by check involving the issuance of two or more checks within a

1 sixty-day period in the state of Colorado totaling ~~one thousand~~ SEVEN
2 HUNDRED FIFTY dollars or more BUT LESS THAN TWO THOUSAND DOLLARS
3 in the aggregate; ~~or if the offender has been twice previously convicted~~
4 ~~under this section or a former statute of this state of similar content and~~
5 ~~purport;~~

6 (d) A CLASS 6 FELONY IF THE FRAUDULENT CHECK WAS FOR THE
7 SUM OF TWO THOUSAND DOLLARS OR MORE OR IF THE OFFENDER IS
8 CONVICTED OF FRAUD BY CHECK INVOLVING THE ISSUANCE OF TWO OR
9 MORE CHECKS WITHIN A SIXTY-DAY PERIOD IN THE STATE OF COLORADO
10 TOTALING TWO THOUSAND DOLLARS OR MORE IN THE AGGREGATE;

11 ~~(d)~~ (e) A class 6 felony if the fraudulent check was drawn on an
12 account which did not exist or which has been closed for a period of thirty
13 days or more prior to the issuance of said check.

14 **SECTION 3.** In Colorado Revised Statutes, 18-5-206, **amend** (1)
15 and (2) as follows:

16 **18-5-206. Defrauding a secured creditor or debtor.** (1) If a
17 person, with intent to defraud a creditor by defeating, impairing, or
18 rendering worthless or unenforceable any security interest, sells, assigns,
19 transfers, conveys, pledges, encumbers, conceals, destroys, or disposes of
20 any collateral subject to a security interest, THE PERSON COMMITS:

21 (a) (Deleted by amendment, L. 2007, p. 1694, § 9, effective July
22 1, 2007.)

23 (b) ~~The person commits a class 2 misdemeanor if the value of the~~
24 ~~collateral is less than five hundred dollars~~ A CLASS 1 PETTY OFFENSE IF
25 THE VALUE OF THE COLLATERAL IS LESS THAN FIFTY DOLLARS;

26 (b.5) ~~The person commits a class 1 misdemeanor if the value of~~
27 ~~the collateral is five hundred dollars or more but less than one thousand~~

1 dollars;

2 (c) ~~The person commits a class 5 felony if the value of the~~
3 ~~collateral is one thousand dollars or more but less than twenty thousand~~
4 ~~dollars; and~~ A CLASS 3 MISDEMEANOR IF THE VALUE OF THE COLLATERAL
5 IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;

6 (d) ~~The person commits a class 3 felony if the value of the~~
7 ~~collateral is twenty thousand dollars or more.~~ A CLASS 2 MISDEMEANOR
8 IF THE VALUE OF THE COLLATERAL IS THREE HUNDRED DOLLARS OR MORE
9 BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;

10 (e) A CLASS 1 MISDEMEANOR IF THE VALUE OF THE COLLATERAL
11 IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO
12 THOUSAND DOLLARS;

13 (f) A CLASS 6 FELONY IF THE VALUE OF THE COLLATERAL IS TWO
14 THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS;

15 (g) A CLASS 5 FELONY IF THE VALUE OF THE COLLATERAL IS FIVE
16 THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND
17 DOLLARS;

18 (h) A CLASS 4 FELONY IF THE VALUE OF THE COLLATERAL IS
19 TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE HUNDRED
20 THOUSAND DOLLARS;

21 (i) A CLASS 3 FELONY IF THE VALUE OF THE COLLATERAL IS ONE
22 HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION
23 DOLLARS; AND

24 (j) A CLASS 2 FELONY IF THE VALUE OF THE COLLATERAL IS ONE
25 MILLION DOLLARS OR MORE.

26 (2) If a creditor, with intent to defraud a debtor, sells, assigns,
27 transfers, conveys, pledges, buys, or encumbers a promissory note or

1 contract signed by the debtor, THE CREDITOR COMMITS:

2 (a) (Deleted by amendment, L. 2007, p. 1694, § 9, effective July
3 1, 2007.)

4 (b) ~~The creditor commits a class 2 misdemeanor if the amount~~
5 ~~owing on the note or contract is less than five hundred dollars~~ A CLASS 1
6 PETTY OFFENSE IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS LESS
7 THAN FIFTY DOLLARS;

8 (b.5) ~~The creditor commits a class 1 misdemeanor if the amount~~
9 ~~owing on the note or contract is five hundred dollars or more but less than~~
10 ~~one thousand dollars;~~

11 (c) ~~The creditor commits a class 5 felony if the amount owing on~~
12 ~~the note or contract is one thousand dollars or more but less than twenty~~
13 ~~thousand dollars; and~~ A CLASS 3 MISDEMEANOR IF THE AMOUNT OWING ON
14 THE NOTE OR CONTRACT IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE
15 HUNDRED DOLLARS;

16 (d) ~~The creditor commits a class 3 felony if the amount owing on~~
17 ~~the note or contract is twenty thousand dollars or more.~~ A CLASS 2
18 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS
19 THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED
20 FIFTY DOLLARS;

21 (e) A CLASS 1 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE
22 OR CONTRACT IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN
23 TWO THOUSAND DOLLARS;

24 (f) A CLASS 6 FELONY IF THE AMOUNT OWING ON THE NOTE OR
25 CONTRACT IS TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE
26 THOUSAND DOLLARS;

27 (g) A CLASS 5 FELONY IF THE AMOUNT OWING ON THE NOTE OR

1 CONTRACT IS FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY
2 THOUSAND DOLLARS;

3 (h) A CLASS 4 FELONY IF THE AMOUNT OWING ON THE NOTE OR
4 CONTRACT IS TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE
5 HUNDRED THOUSAND DOLLARS;

6 (i) A CLASS 3 FELONY IF THE AMOUNT OWING ON THE NOTE OR
7 CONTRACT IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN
8 ONE MILLION DOLLARS; AND

9 (j) A CLASS 2 FELONY IF THE AMOUNT OWING ON THE NOTE OR
10 CONTRACT IS ONE MILLION DOLLARS OR MORE.

11 **SECTION 4.** In Colorado Revised Statutes, 18-5-702, **amend** (3)
12 as follows:

13 **18-5-702. Unauthorized use of a financial transaction device.**

14 (3) Unauthorized use of a financial transaction device is:

15 (a) (Deleted by amendment, L. 2007, p. 1695, § 13, effective July
16 1, 2007.)

17 (b) ~~A class 1 misdemeanor if the value of the cash, credit,~~
18 ~~property, or services obtained or of the financial payments made is less~~
19 ~~than one thousand dollars~~ A CLASS 1 PETTY OFFENSE IF THE VALUE OF THE
20 CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL
21 PAYMENTS MADE IS LESS THAN FIFTY DOLLARS;

22 (c) ~~A class 5 felony if the value of the cash, credit, property, or~~
23 ~~services obtained or of the financial payments made is one thousand~~
24 ~~dollars or more but less than twenty thousand dollars~~ A CLASS 3
25 MISDEMEANOR IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR
26 SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE IS FIFTY
27 DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;

1 (d) ~~A class 3 felony if the value of the cash, credit, property, or~~
2 ~~services obtained or of the financial payments made is twenty thousand~~
3 ~~dollars or more.~~ A CLASS 2 MISDEMEANOR IF THE VALUE OF THE CASH,
4 CREDIT, PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL
5 PAYMENTS MADE IS THREE HUNDRED DOLLARS OR MORE BUT LESS THAN
6 SEVEN HUNDRED FIFTY DOLLARS;

7 (e) A CLASS 1 MISDEMEANOR IF THE VALUE OF THE CASH, CREDIT,
8 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
9 IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO
10 THOUSAND DOLLARS;

11 (f) A CLASS 6 FELONY IF THE VALUE OF THE CASH, CREDIT,
12 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
13 IS TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND
14 DOLLARS;

15 (g) A CLASS 5 FELONY IF THE VALUE OF THE CASH, CREDIT,
16 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
17 IS FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND
18 DOLLARS;

19 (h) A CLASS 4 FELONY IF THE VALUE OF THE CASH, CREDIT,
20 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
21 IS TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE HUNDRED
22 THOUSAND DOLLARS;

23 (i) A CLASS 3 FELONY IF THE VALUE OF THE CASH, CREDIT,
24 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
25 IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE
26 MILLION DOLLARS; AND

27 (j) A CLASS 2 FELONY IF THE VALUE OF THE CASH, CREDIT,

1 PROPERTY, OR SERVICES OBTAINED OR OF THE FINANCIAL PAYMENTS MADE
2 IS ONE MILLION DOLLARS OR MORE.

3 **SECTION 5.** In Colorado Revised Statutes, 18-5.5-102, **amend**
4 (3) (a) as follows:

5 **18-5.5-102. Computer crime.** (3) (a) Except as provided in
6 paragraphs (b) and (c) of this subsection (3), if the loss, damage, value of
7 services, or thing of value taken, or cost of restoration or repair caused by
8 a violation of this section is: ~~less than five hundred dollars, computer~~
9 ~~crime is a class 2 misdemeanor; if five hundred dollars or more but less~~
10 ~~than one thousand dollars, computer crime is a class 1 misdemeanor; if~~
11 ~~one thousand dollars or more but less than twenty thousand dollars,~~
12 ~~computer crime is a class 4 felony; if twenty thousand dollars or more,~~
13 ~~computer crime is a class 3 felony.~~

14 (I) LESS THAN FIFTY DOLLARS, COMPUTER CRIME IS A CLASS 1
15 PETTY OFFENSE;

16 (II) FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED
17 DOLLARS, COMPUTER CRIME IS A CLASS 3 MISDEMEANOR;

18 (III) THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN
19 HUNDRED FIFTY DOLLARS, COMPUTER CRIME IS A CLASS 2 MISDEMEANOR;

20 (IV) SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN
21 TWO THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 1 MISDEMEANOR;

22 (V) TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE
23 THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 6 FELONY;

24 (VI) FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY
25 THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 5 FELONY;

26 (VII) TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE
27 HUNDRED THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 4 FELONY;

1 (VIII) ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS
2 THAN ONE MILLION DOLLARS, COMPUTER CRIME IS A CLASS 3 FELONY; AND

3 (IX) ONE MILLION DOLLARS OR MORE, COMPUTER CRIME IS A
4 CLASS 2 FELONY.

5 **SECTION 6.** In Colorado Revised Statutes, 18-4-409, **amend** (3)
6 as follows:

7 **18-4-409. Aggravated motor vehicle theft.** (3) Aggravated
8 motor vehicle theft in the first degree is a:

9 (a) ~~Class 4~~ CLASS 5 felony if the value of the motor vehicle or
10 motor vehicles involved is LESS THAN twenty thousand dollars; ~~or less~~

11 (a.5) CLASS 4 FELONY IF THE VALUE OF THE MOTOR VEHICLE OR
12 MOTOR VEHICLES INVOLVED IS TWENTY THOUSAND DOLLARS OR MORE BUT
13 LESS THAN ONE HUNDRED THOUSAND DOLLARS;

14 (b) Class 3 felony if the value of the motor vehicle or motor
15 vehicles involved is more than ~~twenty~~ ONE HUNDRED thousand dollars or
16 if the defendant has twice previously been convicted or adjudicated of
17 charges separately brought and tried either in this state or elsewhere of an
18 offense involving theft of a motor vehicle under the laws of this state, any
19 other state, the United States, or any territory subject to the jurisdiction of
20 the United States.

21 **SECTION 7. Appropriation - adjustments to 2014 long bill.**

22 (1) For the implementation of this act, appropriations made in the annual
23 general appropriation act to the judicial department for the fiscal year
24 beginning July 1, 2014, are adjusted as follows:

25 (a) The general fund appropriation to the office of the state public
26 defender for personal services is decreased by \$67,270 and 1.2 FTE.

27 (b) The general fund appropriation to the office of the state public

1 defender for operating and travel expenses is decreased by \$2,138.

2 **SECTION 8. Act subject to petition - effective date -**
3 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
4 the expiration of the ninety-day period after final adjournment of the
5 general assembly (August 6, 2014, if adjournment sine die is on May 7,
6 2014); except that, if a referendum petition is filed pursuant to section 1
7 (3) of article V of the state constitution against this act or an item, section,
8 or part of this act within such period, then the act, item, section, or part
9 will not take effect unless approved by the people at the general election
10 to be held in November 2014 and, in such case, will take effect on the
11 date of the official declaration of the vote thereon by the governor.
12 (2) This act applies to offenses committed on or after the
13 applicable effective date of this act.