

COMPREHENSIVE SENTENCING TASK FORCE

Presented to the Colorado Commission on Criminal and Juvenile Justice
February 3, 2014

FY14-CS #3 Harmonize First Degree Aggravated Motor Vehicle Theft offense levels with the 2013 amendment to Colorado's theft statute.

Recommendation FY14-CS #3:

This recommendation harmonizes the offense levels of the value-based crime of Aggravated Motor Vehicle Theft in the First Degree, § 18-4-409(3) with the General Assembly's recent revisions to the theft statute.

Discussion:

In FY14-CS #1, the Comprehensive Sentencing Task Force previously recommended amending the statutes defining the following value-based crimes, thereby harmonizing their offense levels with the General Assembly's recent revisions to the theft statute: Criminal Mischief, § 18-4-501; Fraud by Check, § 18-5-205; Defrauding a Secured Creditor, § 18-5-206; Unauthorized Use of a Financial Transaction Device, § 18-5-702; and Computer Crime, § 18-5.5-102. This recommendation adds Aggravated Motor Vehicle Theft in the First Degree, § 18-4-409(3) to this list.

In 2013 the General Assembly amended the monetary amounts associated with the various offense levels for the crime of theft. That amendment established a petty offense for crimes involving less than fifty dollars, raised the felony threshold to two thousand dollars, and eliminated previously existing gaps between offense levels. The crime of theft is now punishable as a class 1 petty offense up to a class 2 felony, depending upon the value of the thing involved.

The Comprehensive Sentencing Task Force set out to evaluate whether other value-based offenses could and should be amended to reflect the offense levels associated with the new theft statute.

This recommendation for Aggravated Motor Vehicle Theft in the First Degree incorporates value-based delineations comparable to the new theft statute for the class 3, 4, and 5 felony offense levels. It makes no changes to either the repeat offender or second degree portions of the statute.

The Task Force's exact recommendation is expressed below. Proposed new language in the applicable statutes is highlighted. Currently existing language, which would be replaced if this recommendation is adopted, is shown in strikethrough.

COMPREHENSIVE SENTENCING TASK FORCE

Presented to the Colorado Commission on Criminal and Juvenile Justice

February 3, 2014

Aggravated Motor Vehicle Theft: §18-4-409

(1) As used in this section, unless the context otherwise requires:

(a) "Motor vehicle" means all vehicles of whatever description propelled by any power other than muscular, except vehicles running on rails.

(b) "Vehicle identification number" means the serial number placed upon the motor vehicle by the manufacturer thereof or assigned to the motor vehicle by the department of revenue.

(2) A person commits aggravated motor vehicle theft in the first degree if he or she knowingly obtains or exercises control over the motor vehicle of another without authorization or by threat or deception and:

(a) Retains possession or control of the motor vehicle for more than twenty-four hours; or

(b) Attempts to alter or disguise or alters or disguises the appearance of the motor vehicle; or

(c) Attempts to alter or remove or alters or removes the vehicle identification number; or

(d) Uses the motor vehicle in the commission of a crime other than a traffic offense; or

(e) Causes five hundred dollars or more property damage, including but not limited to property damage to the motor vehicle involved, in the course of obtaining control over or in the exercise of control of the motor vehicle; or

(f) Causes bodily injury to another person while he or she is in the exercise of control of the motor vehicle; or

(g) Removes the motor vehicle from this state for a period of time in excess of twelve hours; or

(h) Unlawfully attaches or otherwise displays in or upon the motor vehicle license plates other than those officially issued for the motor vehicle.

(3) Aggravated motor vehicle theft in the first degree is a:

(a) ~~Class 5~~ ~~Class 4~~ felony if the value of the motor vehicle or motor vehicles involved is **LESS THAN TWENTY THOUSAND DOLLARS** ~~twenty thousand dollars or less~~;

(B) CLASS 4 FELONY IF THE VALUE OF THE MOTOR VEHICLE OR MOTOR VEHICLES INVOLVED IS TWENTY THOUSAND DOLLARS OR MORE, BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;

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

(4) A person commits aggravated motor vehicle theft in the second degree if he or she knowingly obtains or exercises control over the motor vehicle of another without authorization

COMPREHENSIVE SENTENCING TASK FORCE

Presented to the Colorado Commission on Criminal and Juvenile Justice

February 3, 2014

or by threat or deception and if none of the aggravating factors in subsection (2) of this section are present. Aggravated motor vehicle theft in the second degree is a:

- (a) Class 5 felony if the value of the motor vehicle or motor vehicles involved is twenty thousand dollars or more;
- (b) Class 6 felony if the value of the motor vehicle or motor vehicles involved is one thousand dollars or more but less than twenty thousand dollars;
- (c) Class 1 misdemeanor if the value of the motor vehicle or motor vehicles involved is less than one thousand dollars.

(4.5) Whenever a person is convicted of, pleads guilty or nolo contendere to, receives a deferred judgment or sentence for, or is adjudicated a juvenile delinquent for, a violation of this section, the offender's driver's license shall be revoked as provided in section 42-2-125, C.R.S.

(5) Consistent with section 18-1-202, if the theft of a motor vehicle occurs in one jurisdiction and the motor vehicle is recovered in another jurisdiction, the offender may be tried in the jurisdiction where the theft occurred, in any jurisdiction through which the motor vehicle was operated or transported, or in the jurisdiction in which the motor vehicle was recovered.

FY14 Current and Proposed Aggravated Motor Vehicle Theft in the First Degree §18-4-409

Current Offense Levels	
Offense Level	Value
F3	More than \$20K, or repeat offender
F4	\$20K or less
F5	
F6	
M1	
M2	
M3	
PO1	

Proposed Offense Levels	
Offense Level	Value
F3	\$100K or more, or repeat offender
F4	\$20K - \$100K
F5	Less than \$20K
F6	
M1	
M2	
M3	
PO1	