



**FY2014 RECOMMENDATION/FY14-CS01 Harmonize value-based offense levels with the 2013 revision to Colorado's theft statute.**

**Status:** Implementation Complete

**Actions/Updates**

**2014 ACTION TO DATE**

Action on this recommendation was completed with the passage of House Bill 14-1266.

**Description**

The Comprehensive Sentencing Task Force recommends 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 or Debtor, § 18-5-206; Unauthorized Use of a Financial Transaction Device, § 18-5-702, and Computer Crime, § 18-5.5-102.

**Agencies Responsible**

**Discussion**

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. It found that four crimes were appropriate for adopting identical monetary offense level delineations: Fraud by Check, Defrauding a Secured Creditor, Unauthorized Use of a Financial Transaction Device, and the value-based components of Computer Crime. Those four crimes—like theft—are property offenses. It is thus logical to define the punishment level for those offenses in a manner identical to theft.

The offense levels for the crime of Criminal Mischief are currently defined by the same monetary amounts as the pre-2013 theft statute. For that offense, however, the Task Force decided not to raise the monetary amount which defines a felony offense. The recommendation for Criminal Mischief adopts many elements of the new theft statute, while leaving in place the one thousand dollar cutoff which elevates the crime to a felony.

The Task Force recommends leaving in place the currently existing maximum offense levels for all five crimes in this recommendation. Although the 2013 amendment to the theft statute created a class 2 felony theft, the Task Force decided that was unnecessary for other value-based offenses.

The Task Force's exact recommendations are 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 red.

**Criminal Mischief: 18-4-501**

**(1) A PERSON COMMITS CRIMINAL MISCHIEF WHEN HE OR SHE** damages the real or personal property of one or more other persons, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest, in the course of a single criminal episode.

**(2) CRIMINAL MISCHIEF IS:** a. **A CLASS 1 PETTY OFFENSE WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS LESS THAN FIFTY DOLLARS;**

b. **A CLASS 3 MISDEMEANOR WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;**

c. **A CLASS 2 MISDEMEANOR WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;**

d. **A CLASS 1 MISDEMEANOR WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN ONE THOUSAND DOLLARS;**

e. **A CLASS 6 FELONY WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS ONE THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS;**

f. **A CLASS 5 FELONY WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS;**

g. **A CLASS 4 FELONY WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS TWENTY THOUSAND DOLLARS OR MORE BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;**

h. **A CLASS 3 FELONY WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION DOLLARS;**

i. **A CLASS 2 FELONY WHERE THE AGGREGATE DAMAGE TO THE REAL OR PERSONAL PROPERTY IS ONE MILLION DOLLARS OR MORE.**

(1) A person who knowingly damages the real or personal property of one or more other persons, including property owned by the person jointly with another person or property owned by the person in which another person has a possessory or proprietary interest, in the course of a single criminal episode commits a class 2 misdemeanor where the aggregate damage to the real or personal property is less than five hundred dollars. Where the aggregate damage to the real or personal property is five hundred dollars or more but less than one thousand dollars, the person commits a class 1 misdemeanor. Where the aggregate damage to the real or personal property is one thousand dollars or more but less than twenty thousand dollars, the person commits a class 4 felony. Where the aggregate damage to the real or personal property is twenty thousand dollars or more, the person commits a class 3 felony.

#### **Fraud by Check – Definitions – Penalties: 18-5-205**

(3) Fraud by check is:

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

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

**(C) A CLASS 2 MISDEMEANOR IF THE FRAUDULENT CHECK WAS FOR THE SUM OF THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS OR IF THE OFFENDER IS CONVICTED OF FRAUD BY CHECK INVOLVING THE ISSUANCE OF TWO OR MORE CHECKS WITHIN A SIXTY-DAY PERIOD IN THE STATE OF COLORADO TOTALING THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS IN THE AGGREGATE;**

**(D) A CLASS 1 MISDEMEANOR IF THE FRAUDULENT CHECK WAS FOR THE SUM OF SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS OR IF THE OFFENDER IS CONVICTED OF FRAUD BY CHECK INVOLVING THE ISSUANCE OF TWO OR MORE CHECKS WITHIN A SIXTY-DAY PERIOD IN THE STATE OF COLORADO TOTALING SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS IN THE AGGREGATE;**

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

(a) Deleted by Laws 2007, Ch. 384, § 8, eff. July 1, 2007.

(b) A class 2 misdemeanor if the fraudulent check was for the sum of less than five hundred dollars or if the offender is convicted of fraud by check involving the issuance of two or more checks within a sixty-day period in the state of Colorado totaling less than five hundred dollars in the aggregate;

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

#### **Fraud by Check – Definitions – Penalties: 18-5-205 (continued)**

(c) A class 6 felony if the fraudulent check was for the sum of one thousand dollars or more, or if the offender is convicted of fraud by check involving the issuance of two or more checks within a sixty-day period in the state of Colorado totaling one thousand dollars or more in the aggregate, or if the offender has been twice previously convicted under this section or a former statute of this state of similar content and purport;

**(D F)** A class 6 felony if the fraudulent check was drawn on an account which did not exist or which has been closed for a period of thirty days or more prior to the issuance of said check.

#### **Defrauding a Secured Creditor or Debtor: 18-5-206**

(1) If a person, with intent to defraud a creditor by defeating, impairing, or rendering worthless or unenforceable any security interest, sells, assigns, transfers, conveys, pledges, encumbers, conceals, destroys, or disposes of any collateral subject to a security interest:

(a) Deleted by Laws 2007, Ch. 384, § 9, eff. July 1, 2007.

**(B) THE PERSON COMMITS A CLASS 1 PETTY OFFENSE IF THE VALUE OF THE COLLATERAL IS LESS THAN FIFTY DOLLARS;**

**(C) THE PERSON COMMITS A CLASS 3 MISDEMEANOR IF THE VALUE OF THE COLLATERAL IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;**

**(D) THE PERSON COMMITS A CLASS 2 MISDEMEANOR IF THE VALUE OF THE COLLATERAL IS THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;**

**(E) THE PERSON COMMITS A CLASS 1 MISDEMEANOR IF THE VALUE OF THE COLLATERAL IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS;**

**(F) THE PERSON COMMITS A CLASS 6 FELONY IF THE VALUE OF THE COLLATERAL IS TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS;**

**(G) THE PERSON COMMITS A CLASS 5 FELONY IF THE VALUE OF THE COLLATERAL IS FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS;**

**(H) THE PERSON COMMITS A CLASS 4 FELONY IF THE VALUE OF THE COLLATERAL IS TWENTY THOUSAND OR MORE BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;**

**(I) THE PERSON COMMITS A CLASS 3 FELONY IF THE VALUE OF THE COLLATERAL IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION DOLLARS;**

**(j) THE PERSON COMMITS A CLASS 2 FELONY IF THE VALUE OF THE COLLATERAL IS ONE MILLION DOLLARS OR MORE.**

(b) The person commits a class 2 misdemeanor if the value of the collateral is less than five hundred dollars;

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

(c) The person commits a class 5 felony if the value of the collateral is one thousand dollars or more but less than twenty thousand dollars; and

(d) The person commits a class 3 felony if the value of the collateral is twenty thousand dollars or more.

(2) If a creditor, with intent to defraud a debtor, sells, assigns, transfers, conveys, pledges, buys, or encumbers a promissory note or contract signed by the debtor:

(a) Deleted by Laws 2007, Ch. 384, § 9, eff. July 1, 2007.

**(B) THE CREDITOR COMMITS A CLASS 1 PETTY OFFENSE IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS LESS THAN FIFTY DOLLARS;**

**Defrauding a Secured Creditor or Debtor: 18-5-206 (continued)**

**(C) THE CREDITOR COMMITS A CLASS 3 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;**

**(D) THE CREDITOR COMMITS A CLASS 2 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;**

**(E) THE CREDITOR COMMITS A CLASS 1 MISDEMEANOR IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS SEVEN HUNDRED FIFTY DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS;**

**(F) THE CREDITOR COMMITS A CLASS 6 FELONY IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS TWO THOUSAND DOLLARS OR MORE BUT LESS THAN FIVE THOUSAND DOLLARS;**

**(G) THE CREDITOR COMMITS A CLASS 5 FELONY IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS FIVE THOUSAND DOLLARS OR MORE BUT LESS THAN TWENTY THOUSAND DOLLARS;**

**(H) THE CREDITOR COMMITS A CLASS 4 FELONY IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS TWENTY THOUSAND OR MORE BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS;**

**(I) THE CREDITOR COMMITS A CLASS 3 FELONY IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION DOLLARS.**

**(J) THE CREDITOR COMMITS A CLASS 2 FELONY IF THE AMOUNT OWING ON THE NOTE OR CONTRACT IS ONE MILLION DOLLARS OR MORE.**

(b) The creditor commits a class 2 misdemeanor if the amount owing on the note or contract is less than five hundred dollars;

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

(c) The creditor commits a class 5 felony if the amount owing on the note or contract is one thousand dollars or more but less than twenty thousand dollars; and

(d) The creditor commits a class 3 felony if the amount owing on the note or contract is twenty thousand dollars or more.

**Unauthorized Use of a Financial Transaction Device: 18-5-702**

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

(a) Deleted by Laws 2007, Ch. 384, § 13, eff. July 1, 2007.

**(B) A CLASS 1 PETTY OFFENSE IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR IF THE FINANCIAL PAYMENTS MADE IS LESS THAN FIFTY DOLLARS;**

**(C) A CLASS 3 MISDEMEANOR IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR IF THE FINANCIAL PAYMENTS MADE IS FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS;**

**(D) A CLASS 2 MISDEMEANOR IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR IF THE FINANCIAL PAYMENTS MADE IS THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS;**

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

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

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

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

**(I) A CLASS 3 FELONY IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR IF THE FINANCIAL PAYMENTS MADE IS ONE HUNDRED THOUSAND DOLLARS OR MORE BUT LESS THAN ONE MILLION DOLLARS.**

**(I) A CLASS 2 FELONY IF THE VALUE OF THE CASH, CREDIT, PROPERTY, OR SERVICES OBTAINED OR IF THE FINANCIAL PAYMENTS MADE IS ONE MILLION DOLLARS OR MORE.**

(b) A class 1 misdemeanor if the value of the cash, credit, property, or services obtained or of the financial payments made is less than one thousand dollars;

(c) A class 5 felony if the value of the cash, credit, property, or services obtained or of the financial payments made is one thousand dollars or more but less than twenty thousand dollars;

(d) A class 3 felony if the value of the cash, credit, property, or services obtained or of the financial payments made is twenty thousand dollars or more.

**Computer Crime: 18-5.5-102**

(3)(a) Except as provided in paragraphs (b) and (c) of this subsection (3), if the loss, damage, value of services, or thing of value taken, or cost of restoration or repair caused by a violation of this section is less than **FIFTY DOLLARS, COMPUTER CRIME IS A CLASS 1 PETTY OFFENSE; IF FIFTY DOLLARS OR MORE BUT LESS THAN THREE HUNDRED DOLLARS, COMPUTER CRIME IS A CLASS 3 MISDEMEANOR; IF THREE HUNDRED DOLLARS OR MORE BUT LESS THAN SEVEN HUNDRED FIFTY DOLLARS, COMPUTER CRIME IS A CLASS 2 MISDEMEANOR; IF SEVEN HUNDRED FIFTY DOLLARS OR MORE, BUT LESS THAN TWO THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 1 MISDEMEANOR; IF TWO THOUSAND DOLLARS OR MORE, BUT LESS THAN FIVE THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 6 FELONY; IF FIVE THOUSAND DOLLARS OR MORE, BUT LESS THAN TWENTY THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS 5 FELONY; IF TWENTY THOUSAND DOLLARS OR MORE, BUT LESS THAN ONE HUNDRED THOUSAND DOLLARS, COMPUTER CRIME IS A CLASS FOUR FELONY; IF ONE HUNDRED THOUSAND DOLLARS OR MORE, BUT LESS THAN ONE MILLION DOLLARS, COMPUTER CRIME IS A CLASS 3 FELONY; IF ONE MILLION DOLLARS OR MORE, COMPUTER CRIME IS A CLASS 2 FELONY.**

five hundred dollars, computer crime is a class 2 misdemeanor; if five hundred dollars or more but less than one thousand dollars, computer crime is a class 1 misdemeanor; if one thousand dollars or more but less than twenty thousand dollars, computer crime is a class 4 felony; if twenty thousand dollars or more, computer crime is a class 3 felony.