

CHAPTER 221

CRIMINAL LAW AND PROCEDURE

HOUSE BILL 98-1255

BY REPRESENTATIVES Swenson, Dyer, George, Kaufman, T. Williams, Adkins, Epps, Nichol, Pfiffner, and Tool;
also SENATOR B. Alexander.

AN ACT

CONCERNING THE STANDARDIZATION OF CRIMES WHOSE LEVEL OF OFFENSE DEPENDS UPON THE DOLLAR
AMOUNT INVOLVED.

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

SECTION 1. 18-4-401 (4), Colorado Revised Statutes, is amended to read:

18-4-401. Theft. (4) When a person commits theft twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses, and the aggregate value of the things involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, it is a class 4 felony; however, if the aggregate value of the things involved is fifteen thousand dollars or more, it is a class 3 felony.

SECTION 2. 18-1-202 (7), Colorado Revised Statutes, is amended to read:

18-1-202. Place of trial. (7) (a) When multiple crimes are based upon the same act or series of acts arising from the same criminal episode and are committed in several counties, the offender may be tried in any county in which any one of the individual crimes could have been tried, regardless of whether or not the counties are in the same judicial district.

(b) (I) FOR PURPOSES OF THIS SUBSECTION (7), WHEN A PERSON COMMITS ONE OF THE OFFENSES LISTED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b) ON TWO OR MORE OCCASIONS WITHIN A SIX-MONTH PERIOD, IT MAY BE CONSIDERED PART OF THE SAME CRIMINAL EPISODE. NOTHING IN THIS SUBSECTION (7) SHALL BAR PROSECUTION

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OF AN OFFENSE THAT COULD HAVE BEEN JOINED IN ANOTHER PROSECUTION.

(II) THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b) SHALL APPLY TO THE FOLLOWING OFFENSES:

- (a) THEFT, AS DEFINED IN SECTION 18-4-401;
- (b) THEFT OF RENTAL PROPERTY, AS DEFINED IN SECTION 18-4-402;
- (c) THEFT BY RECEIVING, AS DEFINED IN SECTION 18-4-410;
- (d) CRIMINAL MISCHIEF, AS DEFINED IN SECTION 18-4-501;
- (e) FRAUD BY CHECK, AS DEFINED IN SECTION 18-5-205;
- (f) DEFRAUDING A SECURED CREDITOR OR DEBTOR, AS DEFINED IN SECTION 18-5-206;
- (g) FAILURE TO PAY OVER ASSIGNED ACCOUNTS, AS DEFINED IN SECTION 18-5-502;
- (h) CONCEALMENT OR REMOVAL OF SECURED PROPERTY, AS DEFINED IN SECTION 18-5-504;
- (i) FAILURE TO PAY OVER PROCEEDS, AS DEFINED IN SECTION 18-5-505;
- (j) UNAUTHORIZED USE OF A FINANCIAL TRANSACTION DEVICE, AS DEFINED IN SECTION 18-5-702;
- (k) COMPUTER CRIME, AS DEFINED IN SECTION 18-5.5-102;
- (l) PROCURING FOOD OR ACCOMMODATION WITH INTENT TO DEFRAUD, AS DEFINED IN SECTION 12-44-102, C.R.S.;
- (m) TRAFFICKING IN FOOD STAMPS, AS DEFINED IN SECTION 26-2-306, C.R.S.;
- (n) UNLAWFUL USE OF A PATIENT PERSONAL NEEDS TRUST FUND, AS DEFINED IN SECTION 26-4-504, C.R.S.;
- (o) CRIMINAL TAMPERING WITH A MOTOR VEHICLE, AS DEFINED IN SECTION 42-5-103, C.R.S.;
- (p) THEFT OF MOTOR VEHICLE PARTS, AS DEFINED IN SECTION 42-5-104, C.R.S.;
- (q) THEFT IN CONNECTION WITH ASSISTIVE TECHNOLOGY, AS DESCRIBED IN SECTION 6-1-409, C.R.S.;
- (r) THEFT OF FARM PRODUCTS, AS DEFINED IN SECTION 12-16-118, C.R.S.;
- (s) FRAUD IN CONNECTION WITH OBTAINING PUBLIC ASSISTANCE, AS DESCRIBED IN SECTION 26-1-127, C.R.S.; AND

(t) FRAUD IN CONNECTION WITH OBTAINING FOOD STAMPS, AS DESCRIBED IN SECTION 26-2-305, C.R.S.

SECTION 3. 18-4-402 (3), (4), and (6), Colorado Revised Statutes, are amended to read:

18-4-402. Theft of rental property. (3) Theft of rental property is a class 2 misdemeanor where the value of the property involved is one hundred dollars or more and is less than ~~four~~ FIVE hundred dollars.

(4) Theft of rental property is a class 5 felony where the value of the property involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars.

(6) When a person commits theft of rental property twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses, and the aggregate value of the property involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, it is a class 5 felony; however, if the aggregate value of the property involved is fifteen thousand dollars or more, it is a class 3 felony.

SECTION 4. 18-4-410 (3), (4), and (6), Colorado Revised Statutes, are amended to read:

18-4-410. Theft by receiving. (3) Where the value of the thing involved is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars, theft by receiving is a class 2 misdemeanor.

(4) Where the value of the thing involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, theft by receiving is a class 4 felony.

(6) When the aggregate value of the thing or things involved is ~~four~~ FIVE hundred dollars or more and the person committing theft by receiving is engaged in the business of buying, selling, or otherwise disposing of stolen goods for a profit, theft by receiving is a class 3 felony.

SECTION 5. 18-4-501, Colorado Revised Statutes, is amended to read:

18-4-501. Criminal mischief. Any person who knowingly damages the real or personal property of one or more other persons in the course of a single criminal episode commits a class 3 misdemeanor where the aggregate damage to the real or personal property is less than one hundred dollars. Where the aggregate damage to the real or personal property is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars, such person commits a class 2 misdemeanor. Where the aggregate damage to the real or personal property is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, such person commits a class 4 felony. Where the aggregate damage to the real or personal property is fifteen thousand dollars or more, such person commits a class 3 felony.

SECTION 6. 18-5-205 (3) (b) and (3) (c), Colorado Revised Statutes, are amended to read:

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

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

(c) A class 6 felony if the fraudulent check was for the sum of ~~four~~ FIVE hundred dollars or more, or if the offender is convicted of fraud by check involving the issuance of two or more checks within any sixty-day period in the state of Colorado totaling ~~four~~ FIVE hundred 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;

SECTION 7. 18-5-206 (1) (b), (1) (c), (2) (b), and (2) (c), Colorado Revised Statutes, are amended to read:

18-5-206. Defrauding a secured creditor or debtor. (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:

(b) Such person commits a class 2 misdemeanor if the value of the collateral is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

(c) Such person commits a class 5 felony if the value of the collateral is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars; and

(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:

(b) Such creditor commits a class 2 misdemeanor if the amount owing on such note or contract is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

(c) Such creditor commits a class 5 felony if the amount owing on such note or contract is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars; and

SECTION 8. 18-5-502, Colorado Revised Statutes, is amended to read:

18-5-502. Failure to pay over assigned accounts. Where, under the terms of an assignment of an account, as defined in section 4-9-106, C.R.S., the assignor, being permitted to collect the proceeds from the debtor, is to pay over to the assignee any of such proceeds and, after collection thereof, the assignor willfully and wrongfully fails to pay over to the assignee such proceeds amounting to ~~one~~ FIVE hundred dollars or more, ~~he~~ THE PERSON commits a class 5 felony. Where the amount of such proceeds withheld by the assignor is less than ~~one~~ FIVE hundred dollars, ~~he~~ THE PERSON commits a class 2 misdemeanor.

SECTION 9. 18-5-504, Colorado Revised Statutes, is amended to read:

18-5-504. Concealment or removal of secured property. If a person who has given a security interest in personal property, as security interest is defined in section 4-1-201 (37), C.R.S., or other person with actual knowledge of such security interest, during the existence of the security interest, knowingly conceals or removes the encumbered property from the state of Colorado without written consent of the secured creditor, ~~he~~ THE PERSON commits a class 5 felony where the value of the property concealed or removed is ~~one~~ FIVE hundred dollars or more. Where the value of the property concealed or removed is less than ~~one~~ FIVE hundred dollars, ~~he~~ THE PERSON commits a class 2 misdemeanor.

SECTION 10. 18-5-505, Colorado Revised Statutes, is amended to read:

18-5-505. Failure to pay over proceeds unlawful. Where, under the terms of any instrument creating a security interest in personal property, as security interest is defined in section 4-1-201 (37), C.R.S., the person giving the security interest and retaining possession of the encumbered property and having liberty of sale or other disposition, is required to account to the secured creditor for the proceeds of such sale or other disposition, and willfully and wrongfully fails to pay to the secured creditor the amounts due on account thereof, the person giving the security interest commits a class 5 felony where the amount of the proceeds withheld is ~~one~~ FIVE hundred dollars or more. If the amount of the proceeds withheld is less than ~~one~~ FIVE hundred dollars, ~~he~~ THE PERSON commits a class 2 misdemeanor.

SECTION 11. 18-5-702 (3) (b) and (3) (c), Colorado Revised Statutes, are amended to read:

18-5-702. Unauthorized use of a financial transaction device.
(3) Unauthorized use of a financial transaction device is:

(b) A class 2 misdemeanor if the value of the cash, credit, property, or services obtained or of the financial payments made is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

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

SECTION 12. 18-5.5-102 (3), Colorado Revised Statutes, is amended to read:

18-5.5-102. Computer crime. (3) If the loss, damage, or thing of value taken in violation of this section is less than one hundred dollars, computer crime is a class 3 misdemeanor; if one hundred dollars or more but less than ~~four~~ FIVE hundred dollars, computer crime is a class 2 misdemeanor; if ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, computer crime is a class 5 felony; if fifteen thousand dollars or more, computer crime is a class 3 felony.

SECTION 13. 12-44-102, Colorado Revised Statutes, is amended to read:

12-44-102. Defrauding an innkeeper. Any person who, with intent to defraud, procures food or accommodations from any public establishment, without making payment therefor in accordance with his

OR HER agreement with such public establishment, is guilty of a misdemeanor if the total amount due under such agreement is ~~fifty~~ FIVE HUNDRED dollars or less and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment; and, if the amount due under such agreement is more than ~~fifty~~ FIVE HUNDRED dollars, such person commits a class 6 felony and shall be punished as provided in section 18-1-105, C.R.S.

SECTION 14. 26-2-306 (2) (b), (2) (c), and (3), Colorado Revised Statutes, are amended to read:

26-2-306. Trafficking in food stamps. (2) Trafficking in food stamps is:

(b) A class 2 misdemeanor under section 18-1-106, C.R.S., if the value of the food stamps is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

(c) A class 4 felony under section 18-1-105, C.R.S., if the value of the food stamps is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars;

(3) When a person commits the offense of trafficking in food stamps twice or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the food stamps involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, it is a class 4 felony; however, if the aggregate value of the food stamps involved is fifteen thousand dollars or more, it is a class 3 felony.

SECTION 15. 26-4-504 (8) (d) (II) and (8) (d) (III), Colorado Revised Statutes, are amended to read:

26-4-504. Personal needs benefits - amount - patient personal needs trust fund required - funeral and burial expenses - penalty for illegal retention and use. (8) (d) Unlawful use of a patient personal needs trust fund is:

(II) A class 2 misdemeanor, if the amount involved is one hundred dollars or more but less than ~~four~~ FIVE hundred dollars;

(III) A class 4 felony, if the amount involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars;

SECTION 16. 42-5-103 (2) (a) and (2) (b), Colorado Revised Statutes, are amended to read:

42-5-103. Tampering with a motor vehicle. (2) Tampering with a motor vehicle is:

(a) A class 2 misdemeanor if the damage is less than ~~four~~ FIVE hundred dollars;

(b) A class 5 felony if the damage is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars;

SECTION 17. 42-5-104 (2) (a), (2) (b), and (3), Colorado Revised Statutes, are amended to read:

42-5-104. Theft of motor vehicle parts. (2) Theft of motor vehicle parts is:

(a) A class 2 misdemeanor if the value of the thing involved is less than ~~four~~ FIVE hundred dollars;

(b) A class 5 felony if the value of the thing involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars;

(3) When a person commits theft of motor vehicle parts two times or more within a period of six months without having been placed in jeopardy for the prior offense or offenses and the aggregate value of the things involved is ~~four~~ FIVE hundred dollars or more but less than fifteen thousand dollars, it is a class 5 felony; however, if the aggregate value of the things involved is fifteen thousand dollars or more, it is a class 4 felony.

SECTION 18. Effective date - applicability. This act shall take effect July 1, 1998, and shall apply to offenses committed on or after said date.

SECTION 19. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 1998