

# LEGAL SERVICES

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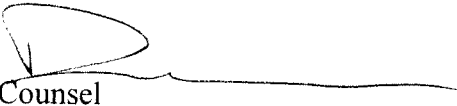
State Capitol  
Juneau, Alaska 99801-1182  
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## MEMORANDUM

April 12, 2012

**SUBJECT:** Draft amendment to HCS CSSB 210( ); title change resolution may be required; Work Order No. 27-LS1362\O.1)

**TO:** Representative Steve Thompson  
Vice-Chair of the House Judiciary Committee  
Attn: Melanie Lesh

**FROM:** Dan Wayne   
Legislative Counsel

Enclosed is the draft amendment you requested for the above-numbered bill.

The Constitution of the State of Alaska, article II, section 13, requires that the subject of each bill shall be expressed in the title. If the amendment is adopted, the title of the bill will need to be changed. Because the title change would be to a Senate bill in the House, a concurrent resolution would be required to suspend Uniform Rules 24(c), 35, 41(b) and 42(e), which prohibit changes to a bill's title in the second house. If the amendment is adopted by a committee, the committee may ask this office to draft a concurrent resolution at the time a committee substitute is prepared.

DCW:plm  
12-228.plm

Enclosure

**AMENDMENT**

OFFERED IN THE HOUSE

TO: HCS CSSB 210( ), Draft Version "O"

1 Page 1, line 6:

2 Delete "**and**"

3 Insert "**relating to property crimes;**"

4

5 Page 2, following line 29:

6 Insert new bill sections to read:

7 "**\* Sec. 2.** AS 11.46.130(a) is amended to read:

8 (a) A person commits the crime of theft in the second degree if the person  
9 commits theft as defined in AS 11.46.100 and

10 (1) the value of the property or services is **\$1,500** [\$500] or more but  
11 less than \$25,000;

12 (2) the property is a firearm or explosive;

13 (3) the property is taken from the person of another;

14 (4) the property is taken from a vessel and is vessel safety or survival  
15 equipment;

16 (5) the property is taken from an aircraft and the property is aircraft  
17 safety or survival equipment;

18 (6) the value of the property is **\$250** [\$50] or more but less than **\$1,500**  
19 [\$500] and, within the preceding five years, the person has been convicted and  
20 sentenced on two or more separate occasions in this or another jurisdiction of

21 (A) an offense under AS 11.46.120, or an offense under  
22 another law or ordinance with similar elements;

23 (B) a crime set out in this subsection or an offense under

another law or ordinance with similar elements;

(C) an offense under AS 11.46.140(a)(1), or an offense under another law or ordinance with similar elements; or

(D) an offense under AS 11.46.220(c)(1) or (c)(2)(A), or an offense under another law or ordinance with similar elements; or

(7) the property is an access device.

\* **Sec. 3.** AS 11.46.140(a) is amended to read:

(a) A person commits the crime of theft in the third degree if the person commits theft as defined in AS 11.46.100 and

(1) the value of the property or services is \$250 [\$50] or more but less than \$1,500 [\$500]; **or**

(2) [REPEALED]

(3)] the value of the property is less than \$250 [\$50] and, within the past five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of theft or concealment of merchandise, or an offense under another law or ordinance with similar elements.

\* **Sec. 4.** AS 11.46.150(a) is amended to read:

(a) A person commits the crime of theft in the fourth degree if the person commits theft as defined in AS 11.46.100 and the value of the property or services is less than \$250 [\$50].

\* **Sec. 5.** AS 11.46.220(c) is amended to read:

(c) Concealment of merchandise is

(1) a class C felony if

(A) the merchandise is a firearm;

(B) the value of the merchandise is \$1,500 [\$500] or more; or

(C) the value of the merchandise is \$250 [\$50] or more but less than \$1,500 [\$500] and, within the preceding five years, the person has been convicted and sentenced on two or more separate occasions in this or another jurisdiction of

(i) the offense of concealment of merchandise under this paragraph or (2)(A) of this subsection, or an offense under another

1 law or ordinance with similar elements; or

2 (ii) an offense under AS 11.46.120, 11.46.130, or  
3 11.46.140(a)(1), or an offense under another law or ordinance with  
4 similar elements;

5 (2) a class A misdemeanor if

6 (A) the value of the merchandise is \$250 [\$50] or more but less  
7 than \$1,500 [\$500]; or

8 (B) the value of the merchandise is less than \$250 [\$50] and,  
9 within the preceding five years, the person has been convicted and sentenced  
10 on two or more separate occasions of the offense of concealment of  
11 merchandise or theft in any degree, or an offense under another law or  
12 ordinance with similar elements;

13 (3) a class B misdemeanor if the value of the merchandise is less than  
14 \$250 [\$50].

15 \* Sec. 6. AS 11.46.260(b) is amended to read:

16 (b) Removal of identification marks is

17 (1) a class C felony if the value of the property on which the serial  
18 number or identification mark appeared is \$1,500 [\$500] or more;

19 (2) a class A misdemeanor if the value of the property on which the  
20 serial number or identification mark appeared is \$250 [\$50] or more but less than  
21 \$1,500 [\$500];

22 (3) a class B misdemeanor if the value of the property on which the  
23 serial number or identification mark appeared is less than \$250 [\$50].

24 \* Sec. 7. AS 11.46.270(b) is amended to read:

25 (b) Unlawful possession is

26 (1) a class C felony if the value of the property on which the serial  
27 number or identification mark appeared is \$1,500 [\$500] or more;

28 (2) a class A misdemeanor if the value of the property on which the  
29 serial number or identification mark appeared is \$250 [\$50] or more but less than  
30 \$1,500 [\$500];

31 (3) a class B misdemeanor if the value of the property on which the

1 serial number or identification mark appeared is less than **\$250** [\$50].

2 \* **Sec. 8.** AS 11.46.280(d) is amended to read:

3 (d) Issuing a bad check is

4 (1) a class B felony if the face amount of the check is \$25,000 or more;

5 (2) a class C felony if the face amount of the check is **\$1,500** [\$500] or  
6 more but less than \$25,000;

7 (3) a class A misdemeanor if the face amount of the check is **\$250**  
8 [\$50] or more but less than **\$1,500** [\$500];

9 (4) a class B misdemeanor if the face amount of the check is less than  
10 **\$250** [\$50].

11 \* **Sec. 9.** AS 11.46.285(b) is amended to read:

12 (b) Fraudulent use of an access device is

13 (1) a class B felony if the value of the property or services obtained is  
14 \$25,000 or more;

15 (2) a class C felony if the value of the property or services obtained is  
16 **\$1,500** [\$50] or more but less than \$25,000;

17 (3) a class A misdemeanor if the value of the property or services  
18 obtained is less than **\$1,500** [\$50].

19 \* **Sec. 10.** AS 11.46.295 is amended to read:

20 **Sec. 11.46.295. Prior convictions.** For purposes of considering prior  
21 convictions in prosecuting a crime of theft under AS 11.46.130(a)(6) or  
22 **11.46.140(a)(2)** [11.46.140(a)(3)], or in prosecuting the crime of concealment of  
23 merchandise under AS 11.46.220(c), a conviction for an offense under another law or  
24 ordinance with similar elements is a conviction of an offense having elements similar  
25 to those of an offense defined as such under Alaska law at the time the offense was  
26 committed. The court shall consider the date of a prior conviction as occurring on the  
27 date that sentence is imposed for the prior offense.

28 \* **Sec. 11.** AS 11.46.360(a) is amended to read:

29 (a) A person commits the crime of vehicle theft in the first degree if, having  
30 no right to do so or any reasonable ground to believe the person has such a right, the  
31 person drives, tows away, or takes

(1) the car, truck, motorcycle, motor home, bus, aircraft, or watercraft of another;

(2) the propelled vehicle of another and

(A) the vehicle or any other property of another is damaged in a total amount of \$1,500 [\$500] or more;

(B) the owner incurs reasonable expenses as a result of the loss of use of the vehicle, in a total amount of \$1,500 [\$500] or more; or

(C) the owner is deprived of the use of the vehicle for seven days or more;

(3) the propelled vehicle of another and the vehicle is marked as a police or emergency vehicle; or

(4) the propelled vehicle of another and, within the preceding seven years, the person was convicted under

(A) this section or AS 11.46.365;

(B) former AS 11.46.482(a)(4) or (5);

(C) former AS 11.46.484(a)(2);

(D) AS 11.46.120 - 11.46.140 of an offense involving the theft of a propelled vehicle; or

(E) a law or ordinance of this or another jurisdiction with elements substantially similar to those of an offense described in (A) - (D) of this paragraph.

**\* Sec. 12.** AS 11.46.482(a) is amended to read:

(a) A person commits the crime of criminal mischief in the third degree if, having no right to do so or any reasonable ground to believe the person has such a right,

(1) with intent to damage property of another, the person damages property of another in an amount of \$1,500 [\$500] or more;

(2) the person recklessly creates a risk of damage in an amount exceeding \$100,000 to property of another by the use of widely dangerous means; or

(3) the person knowingly

(A) defaces, damages, or desecrates a cemetery or the contents

1 of a cemetery or a tomb, grave, or memorial regardless of whether the tomb,  
 2 grave, or memorial is in a cemetery or whether the cemetery, tomb, grave, or  
 3 memorial appears to be abandoned, lost, or neglected;

4 (B) removes human remains or associated burial artifacts from  
 5 a cemetery, tomb, grave, or memorial regardless of whether the cemetery,  
 6 tomb, grave, or memorial appears to be abandoned, lost, or neglected.

7 \* **Sec. 13.** AS 11.46.484(a) is amended to read:

8 (a) A person commits the crime of criminal mischief in the fourth degree if,  
 9 having no right to do so or any reasonable ground to believe the person has such a  
 10 right

11 (1) with intent to damage property of another, the person damages  
 12 property of another in an amount of \$250 [\$50] or more but less than \$1,500 [\$500];

13 (2) the person tampers with a fire protection device in a building that is  
 14 a public place;

15 (3) the person knowingly accesses a computer, computer system,  
 16 computer program, computer network, or part of a computer system or network;

17 (4) the person uses a device to descramble an electronic signal that has  
 18 been scrambled to prevent unauthorized receipt or viewing of the signal unless the  
 19 device is used only to descramble signals received directly from a satellite or unless  
 20 the person owned the device before September 18, 1984; or

21 (5) the person knowingly removes, relocates, defaces, alters, obscures,  
 22 shoots at, destroys, or otherwise tampers with an official traffic control device or  
 23 damages the work upon a highway under construction.

24 \* **Sec. 14.** AS 11.46.486(a) is amended to read:

25 (a) A person commits the crime of criminal mischief in the fifth degree if,  
 26 having no right to do so or any reasonable ground to believe the person has such a  
 27 right,

28 (1) with reckless disregard for the risk of harm to or loss of the  
 29 property or with intent to cause substantial inconvenience to another, the person  
 30 tampers with property of another;

31 (2) with intent to damage property of another, the person damages

property of another in an amount less than \$250 [\$50]; or

(3) the person rides in a propelled vehicle knowing it has been stolen or that it is being used in violation of AS 11.46.360 or 11.46.365(a)(1).

\* **Sec. 15.** AS 11.46.530(b) is amended to read:

(b) Criminal simulation is

(1) a class C felony if the value of what the object purports to represent is \$1,500 [\$500] or more;

(2) a class A misdemeanor if the value of what the object purports to represent is \$250 [\$50] or more but less than \$1,500 [\$500];

(3) a class B misdemeanor if the value of what the object purports to represent is less than \$250 [\$50].

\* **Sec. 16.** AS 11.46.620(d) is amended to read:

(d) Misapplication of property is

(1) a class C felony if the value of the property misapplied is \$1,500 [\$500] or more;

(2) a class A misdemeanor if the value of the property misapplied is less than \$1,500 [\$500].

\* **Sec. 17.** AS 11.46.730(c) is amended to read:

(c) Defrauding creditors is a class A misdemeanor unless that secured party, judgment creditor, or creditor incurs a pecuniary loss of \$1,500 [\$500] or more as a result to the defendant's conduct, in which case defrauding secured creditors is

(1) a class B felony if the loss is \$25,000 or more;

(2) a class C felony if the loss is \$1,500 [\$500] or more but less than \$25,000."

Renumber the following bill sections accordingly.

Page 8, line 15, following "APPLICABILITY.":

Insert "(a) AS 11.46.130(a), as amended by sec. 2 of this Act, AS 11.46.140(a), as amended by sec. 3 of this Act, AS 11.46.150(a), as amended by sec. 4 of this Act, AS 11.46.220(c), as amended by sec. 5 of this Act, AS 11.46.260(b), as amended by sec. 6 of



1 this Act, AS 11.46.270(b), as amended by sec. 7 of this Act, AS 11.46.280(d), as amended by  
 2 sec. 8 of this Act, AS 11.46.285(b), as amended by sec. 9 of this Act, AS 11.46.295, as  
 3 amended by sec. 10 of this Act, AS 11.46.360(a), as amended by sec. 11 of this Act,  
 4 AS 11.46.482(a), as amended by sec. 12 of this Act, AS 11.46.484(a), as amended by sec. 13  
 5 of this Act, AS 11.46.486(a), as amended by sec. 14 of this Act, AS 11.46.530(b), as amended  
 6 by sec. 15 of this Act, AS 11.46.620(d), as amended by sec. 16 of this Act, and  
 7 AS 11.46.730(c), as amended by sec. 17 of this Act, apply to offenses occurring on or after  
 8 the effective date of this Act."

9  
 10 Reletter the following subsections accordingly.

11  
 12 Page 8, line 9:

13 Delete "sec. 12"

14 Insert "sec. 28"

15  
 16 Page 8, line 10:

17 Delete "sec. 13"

18 Insert "sec. 29"

19  
 20 Page 8, line 15:

21 Delete "sec. 5"

22 Insert "sec. 21"

23  
 24 Page 8, line 16:

25 Delete "sec. 6"

26 Insert "sec. 22"

27 Delete "sec. 7"

28 Insert "sec. 23"

29  
 30 Page 8, line 17:

31 Delete "sec. 8"

1           Insert "sec. 24"

2

3   Page 8, line 18:

4           Delete "sec. 11"

5           Insert "sec. 27"

6

7   Page 8, line 20:

8           Delete "secs. 9 and 10"

9           Insert "secs. 25 and 26"

10

11   Page 8, line 22:

12           Delete "sec. 12"

13           Insert "sec. 28"

14

15   Page 10, line 4:

16           Delete "Section 18"

17           Insert "Section 34"

18

19   Page 10, line 7:

20           Delete "Sections 12 and 13"

21           Insert "Sections 28 and 29"

22           Delete "sec. 16"

23           Insert "sec. 32"