

HB

13



**ALASKA STATE LEGISLATURE
HOUSE RULES COMMITTEE
REPRESENTATIVE JOHN COGHILL, CHAIRMAN**

State Capitol Juneau, AK 99801-1182 (907) 465-3719
3340 Badger Road Suite #290, North Pole, AK 99705 (907) 488-5725

Sponsor Statement

HB 13 "An Act relating to property crimes"
(26-LS0069\A)

The purpose of House Bill 13 is to raise the threshold amounts that distinguish felony theft from misdemeanor theft, and further distinguish class A misdemeanor theft from class B misdemeanor theft.

For example, it is a class C felony to commit theft of property valued at \$500 or more (up to \$25,000) under current law; it is a class A misdemeanor to commit theft of property valued under \$500 (but over \$50). These amounts were adopted in 1978 and, like the other threshold amounts, have not been adjusted for inflation since that time.

House Bill 13 would raise these threshold amounts to more accurately reflect their current value.



**ALASKA STATE LEGISLATURE
HOUSE RULES COMMITTEE
REPRESENTATIVE JOHN COGHILL, CHAIRMAN**

State Capitol Juneau, AK 99801-1182 (907) 465-3719
3340 Badger Road Suite #290, North Pole, AK 99705 (907) 488-5725

Sectional

HB 13

"An Act relating to property crimes"

(26-LS0069\A)

Section 1: AS 11.46.130(a) is amended to read:

This section will increase the minimum amount of property or services for the crime of theft in the second degree.

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

- (1) the value of property or services is **\$1,500** [\$500] or more but less than \$25,000;
- (6) the value of the property is **\$250** [\$50] or more but less than **\$1,500** [\$500]

Section 2. AS 11.46.140(a) is amended to read:

This section will increase the minimum amount of property or services for the crime of theft in the third degree.

(a) 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 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- (2) [REPEALED]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]

Section 3. AS 11.46.150(a) is amended to read:

This section will increase the minimum amount of property or services for the crime of theft in the fourth degree.

(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].

Section 4. AS 11.46.220(c) is amended to read:

This section will increase the minimum amount of merchandise for the crime of concealment of merchandise for a class C felony, and class A and B misdemeanors.

(c) Concealment of merchandise is

(1) a class C felony if

(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,

(2) a class A misdemeanor if

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

(B) the value of the merchandise is less than \$250 [\$50] and,

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

Section 5. AS 11.46.260(b) is amended to read:

This section will increase the minimum amount of property that identification marks are removed from for a class C felony and class A and B misdemeanors.

(b) Removal of identification marks is

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

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

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

Section 6. AS 11.46.270(b) is amended to read:

This section will increase the minimum amount of unlawful possession of property for a class C felony and class A and B misdemeanors.

(b) Unlawful possession is

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

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

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

Section 7. AS 11.46.280(d) is amended to read:

This section will increase the minimum amount of a bad check for a class C felony and class A and B misdemeanors.

(d) Issuing a bad check is

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

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

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

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

Section 8. AS 11.46.280(d) is amended to read:

This section will increase the minimum amount of the fraudulent use of an access device for a class C felony and class A misdemeanor.

(b) Fraudulent use of an access device is

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

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

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

Section 9. AS 11.46.295 is amended to read:

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

Section 10. AS 11.46.360(a) is amended to read:

This section will increase the minimum amount of property damage and expenses as a result of the loss of use of a vehicle.

- (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

Section 11. AS 11.46.482(a) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the third degree.

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

Section 12. AS 11.46.484(a) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the fourth degree.

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

Section 13. AS 11.46.486(a) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal mischief in the fifth degree.

(2) with intent to damage property of another, the person damages property of another in an amount less than **\$250** [\$50]; or

Section 14. AS 11.46.530(b) is amended to read:

This section will increase the minimum amount of property damage for the crime of criminal simulation for a class C felony and class A and B misdemeanors.

(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].

Section 15. AS 11.46.620(d) is amended to read:

This section will increase the amount of the value of the property for the crime of misapplication of the value of property for a class C felony and class A misdemeanor.

(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].

Section 16. AS 11.46.730(c) is amended to read:

This section will increase the minimum amount for the crime of defrauding creditors under certain conditions for a class A misdemeanor, and class C felony.

(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.

Section 17. The uncodified law of the State of Alaska is amended by adding a new section to read:

This section will establish the date this act will apply to offenses committed.

APPLICABILITY. This Act applies to offenses committed on or after the effective date of this Act.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB13-ACS-02-12-09
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: _____
 Title Property Crimes RDU Alaska Court System
 Component Trial Courts
 Sponsor Representative Coghill
 Requester _____ Component Number _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
-------------------------------	--	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)
 House Bill 13 raises the dollar amounts associated with a variety of property crimes. The increases that have the potential to impact the court system are those that raise from \$500 to \$1,500 the value of property that must be stolen or damaged before a felony crime is committed. These changes will impact the court if they result in a significant number of cases moving from the superior court, where the cost per case is high, to the district court, where the cost per case is lower. However, a review of available information shows that, because of the way these cases are prosecuted and processed, the majority of property crimes impacted by this bill are already resolved in the district court. Because of this, this bill will not have a measurable impact on the court system. What it will do, however, is change the way these cases are counted to more accurately reflect current workloads.

Prepared by: Doug Wooliver, Administrative Attorney
 Division Alaska Court System
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director
Alaska Court System

Phone 463-4750
 Date/Time 02-12-09 @ 3:00 pm
 Date 2/12/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 13
 () Publish Date: _____

Identifier (file name): HB013-LAW-CRIM-02-13-09
 Title: An Act relating to property crimes.
 Sponsor: Representative Coghill
 Requester: Jud
 Dept. Affected: Law
 RDU: Criminal
 Component: Criminal Justice Litigation
 Component Number: 2203

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information					
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services	0.0		0.0		0.0	0.0	0.0
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES							
-----------------------------	--	--	--	--	--	--	--

CHANGE IN REVENUES ()							
-------------------------------	--	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0		0.0	0.0	0.0	0.0	0.0
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

HB 13 raises the amount or value of property under the theft laws that are the thresholds between felony and misdemeanor theft, and between class A misdemeanor theft and class B misdemeanor theft. For example, under current law, the threshold between class C felony theft and class A misdemeanor theft is \$500. HB 13 would raise this to \$1,500. It makes these changes to the various types of theft, including issuing a bad check and fraudulent use of an access device. It is anticipated this legislation will have no fiscal impact on the Department.

Prepared by: Dave Blaisdell, Director
 Division: Administrative Services Division
 Approved by: Rick Svobodny, Acting Attorney General
Department of Law

Phone 465-3673
 Date/Time 2/13/09 12:00 AM
 Date 2/13/2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB13-DOC-OC-02-16-09
() Publish Date: _____

Identifier (file name): HB13-DOC-OC-02-16-09 Dept. Affected: DOC
Title: "Act relating to property crimes." RDU: Administration & Support
Component: Office of the Commissioner
Sponsor: Representative Coghill
Requester: Governor Component Number: 694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	***	***	***	***	***	***	***	***
CAPITAL EXPENDITURES								
CHANGE IN REVENUES ()								

FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	***	***	***	***	***	***	***

Estimate of any current year (FY2009) cost: _____

POSITIONS

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will increase the minimum amounts for property values associated with property thefts.

This legislation should impact the number of offenders incarcerated under this statute by changing what is currently a felony conviction to a misdemeanor conviction. As of December 31, 2008 there were 203 offenders incarcerated under the existing legislation but the department cannot determine which of those would be considered a misdemeanor under this revised legislation. Although the fiscal impact is indeterminate, it is anticipated that the overall impact should be a reduction in the total number and cost of incarcerated offenders. (continued on page 2)

Prepared by: Leslie Houston, Director Phone (907) 465-3339
Division: Administration and Support Date/Time 2/16/09 12:42 PM
Approved by: Dwayne Peoples, Deputy Commissioner Date 2/16/2009
Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

BILL NO. HB13-DOC-OC-02-16-09

ANALYSIS CONTINUATION

At this time, data is not available for the department to calculate the number of offenders that would be now be sentenced as misdemeanors under this bill. The department will continue to work to determine the number of offenders that could potentially be impacted by passage of this legislation. A revised fiscal note may be submitted at a later date if appropriate.



**STATE OF ALASKA
OFFICE OF VICTIMS' RIGHTS**

February 27, 2009

Max F. Gruenberg, Jr.
State Representative, House District 20
State Capitol Building Room 110
Juneau, Alaska 99801-1181

Via Fax to 907-465-3766

Allison Laffen
Legislative Aide
State Capitol Building Room 110
Juneau, Alaska 99801-1181

Via Fax to 907-465-3766

Re: House Bill 13

Dear Representative Gruenberg, Jr. and Ms. Laffen:

I write in response to your request for comments on House Bill 13. I have reviewed the pending legislation and discussed it with senior victim's advocate, Katherine J. Hansen.

The Alaska Office of Victims' Rights ("OVR") *only has jurisdiction* to assist crime victims involved in *felony level property offenses* [See, Alaska Statute 24.65.100(a)].

Since House Bill 13 increases the dollar amount of property constituting a felony offense, the bill stands to potentially decrease the number of crime victims eligible for OVR assistance. Under the current law, for example, a crime victim who has had \$800.00 worth of property stolen is eligible for OVR assistance; under House Bill 13, the victim would not be eligible since the crime would be a misdemeanor.

In addition, crime victims, like criminal defendants, tend to be disproportionately poor. See, U.S. Department of Justice, Bureau of Justice Statistics, *Criminal Victimization in the United States*, tbl. 14 (2006) (finding higher victimization rates at lower income levels). A \$500.00 property offense (particularly during difficult economic times) could

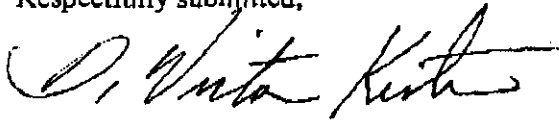
Letter to Representative Max Gruenberg, Jr.
February 26, 2009
Page 2 of 2

be considered a meaningful deprivation of a victim's property interest warranting felony level prosecution.

The categorization of property offenses in House Bill 13 stands to reduce collection resources available to crime victims. In general, misdemeanor property crimes in the Third Judicial District are prosecuted by the Municipality of Anchorage which has very limited resources to help victims collect restitution judgments. Lastly, misdemeanor probationers are unsupervised and thus less likely to pay restitution judgments.

If you have any questions or concerns regarding these comments please do not hesitate to contact me. The OVR stands ready to contribute positively to improving the administration of criminal justice throughout Alaska.

Respectfully submitted,



D. Victor Kester
Executive Director

HB 13 – Bad public policy

I recently learned of HB 13 which proposes increasing the dollar amounts assigned to degrees of Theft and Concealment of Merchandise offenses three to five times more than current law – raising the A Misdemeanor threshold from \$50 to \$250; and the Felony threshold from \$500 to \$1500.

Initially, I questioned what is to be accomplished by passage of the bill. I wondered if it was thought that changing current law would reduce the workload of police officers, prosecutors, or the courts. I wondered if it was proposed in order to make enforcement of law more efficient; somehow providing more effective protection for our communities; or, insuring greater vindication of citizens victimized by these crimes. Admittedly, I could find no positive conclusions to these questions. In effect, the only persons benefitted by HB 13 are criminals.

As an 18-year Alaska State Trooper I have charged numerous individuals with theft crimes. My experience has taught me that, although our Courts and District Attorneys are genuinely concerned that all cases are fully prosecuted, reality is that they cannot address their case loads without some dismissals and plea agreements. Consequently, a large number of B Misdemeanor cases are dismissed and many felony charges are reduced to misdemeanors. HB 13 does nothing to alleviate this problem and, in fact, will likely exacerbate it over time. By raising the A/B Misdemeanor threshold to \$250 (five times current law), “petty” thefts or incidents of shoplifting will transform into financially crippling losses without legal recognition of their significance. Additionally, the Misdemeanor/Felony threshold increase significantly eases the consequences of theft due to plea agreements. This then, has high potential of increasing the number of these crimes because of the ease of obtaining large amounts of property with decreased consequence.

Criminal laws are, and should be, created to set parameters on socially unacceptable behavior by discouraging tendencies toward criminal thought and shielding from victimization. Often, property crimes are given low priority and little consideration is given to the emotions these victims experience. Feelings of anger, violence, vulnerability, retaliation, and being violated are among some of the strongest. When victims fail to see tangible results of an investigation or prosecution further frustration, distrust, and isolation can follow. Increasing the thresholds for these crimes will likely amplify this problem and leave potential victims at greater risk of larger losses.

Some may argue that raising the thresholds will prevent misguided youthful offenders from unnecessarily being labeled as felons. We must remember that it is not a felony charge, but rather a felony conviction, that carries the label. Additionally, those who offend under the age of 18 will realize a fresh start at that age. And, raising the thresholds may actually inhibit early intervention by dismissing serious misbehavior as an insignificant misdemeanor.

Others may argue that the thresholds addressed in HB13 should be reconsidered because of their age, I believe it is more important to remember the significance that \$250 or \$500 is to each of us. I dare say that all of us carefully budget before spending these amounts and when these amounts go missing due to loss, theft, or damage, there is significant impact upon us – particularly in today's economy. In short, HB13 simply attempts to inflation-proof these crimes. This should never be the motivator for altering and passing law.

Thank you for your consideration of these reasons to oppose HB 13.

Rob Cox
President
Public Safety Employees Association

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355

February 17, 2009

Business Manager

Joseph Young
Anchorage

Board of Directors

Angella Long, President
Wasilla

John Lucking, Vice President
Soldotna

Leo Brandlen, Past President
Anchorage

Kim Wannamaker, Member
Kenai
Pres. Kenai Chapter

Dan Frerich, Member
Anchorage
Pres. Anchorage Chapter

John Jansen, Member
Mat-Su
Pres. Mat-Su Chapter

Jim Janke, Member
Fairbanks
Pres. Farthest North Chapter

Dan Boone, Member
Juneau
Pres. Capital City Chapter

A.J. Charlton, Member
Ketchikan
Pres. First City Chapter

Matt Betzen, Member
Unalaska
Pres. Aleutian Islands Chapter

Thecia LaLonde, Member
Wrangell
Pres. Wrangell Chapter

Representative John Coghill
House of Representatives
State Capitol
Juneau AK 99801-1182

Dear Representative Coghill:

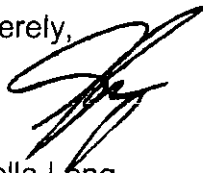
On behalf of the Alaska Peace Officers Association (APOA), I am writing regarding your introduction of House Bill 13, relating to property crimes.

The APOA Legislative Committee recently reviewed this proposed legislation and is unanimously opposed to this bill.

We oppose any effort to raise the amounts in property crimes. \$500 is still a significant loss to many people. Raising the dollar amount of the felony level theft reduces the ability to charge individuals with a felony. Current law provides prosecutors the opportunity and flexibility to plea down to a misdemeanor in the interest of justice. With the current state of the economy, \$500 is a reasonable threshold and we see no need to change it.

We urge you to reconsider this legislation. Please contact the APOA office in Anchorage at 277-0515 if you have any questions.

Sincerely,



Angella Long
State President

