

**Criminal Offense Classification Proposal “B” – Property Crimes & Frauds  
Draft 08-29-2019**

**Proposed Tiered Classification System for Property Crimes  
*Felony Threshold is “Greater Than \$10,000.”***

<u>Value* at Issue:</u>	<u>Classification Is:</u>
Greater than \$0	D misdemeanor (30 days)
\$1,000-\$9,999	A Misdemeanor (2 years)
\$10,000-\$99,999	D Felony (5 years)
\$100,000 +	C Felony (10 years)
Subsequent Offense	No recommendation

**Intended Effect of Proposal “B” Tier Classification System:** (1) create a uniform system of penalties based upon the dollar value of the item stolen or damage done; (2) de-felonize the range from \$900-\$9,999; (3) cap exposure at a C Felony, which is reserved for the \$100,000+ tier or a subsequent offense of the \$10,000-\$99,999 tier; and (4) achieve reforms consistent with or more progressive than other states’ recent efforts to reform of dollar cut-off values. See *Appendix*, p. 9.

\*It might make sense to clarify in instances of property damage that “value” is the cost of restoring property to its previous condition, not the value of the property itself. For example, Defendant takes a key to his estranged girlfriend’s Ford Mustang, gouging the paint on three body panels. The depreciated actual cash value of the Mustang is \$15,000. The cost to repair the body panels to their previous condition is \$1,200. The “value” for purposes of the above table is therefore \$1,200. The value of the Mustang (\$15,000) is immaterial. The offense is chargeable as an A Misdemeanor, not as a D Felony.

**Periodic Inflation Adjustment Recommendation:** On July 1, 2045 and thereafter every 25 years, the Joint Fiscal Office (JFO) shall calculate the inflation or deflation rate for the preceding 25 years using a generally-accepted measure of consumer price inflation or deflation. Based upon that calculation, the JFO shall issue a report recommending to the General Assembly the adjustment of the dollar-value-denominated penalty tiers for property crimes, rounding to the nearest \$100.

**Classification Recommendations:** not all property crimes are well-suited to dollar-value tiers. For instance, crimes against a person such as *Larceny From a Person* are not tiered. The classification recommendations follow:

**Criminal Offense Classification Proposal "B" – Property Crimes & Frauds  
Draft 08-29-2019**

Offense	Statute	Penalty	Automatic Classification	Proposal	Notes
Credit Card Fraud \$50 or Less	9 VSA 4043 & 4044(a)	6 mo/ \$500/both	C misdemeanor	Follow tiered proposal	<b>Less time</b>
<b>Credit Card Fraud \$50 or More</b>	9 VSA 4043 & 4044(b)	1 yr/ \$1000/both	B misdemeanor	Follow tiered proposal	<b>More time</b>
Forgery	13 VSA 1801	10 yr /\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Uttering Forgery	13 VSA 1802	10 yr /\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Counterfeiting	13 VSA 1804	14 yr/\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Credit Card Skimmer	13 VSA 1816	10 yr/\$10000/both	C felony	C felony	The crime itself is suggestive of non-petty dollar amounts
False Personation	13 VSA 2001	10 years/\$2000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
False Pretenses \$900 or Less	13 VSA 2002	1 yr / \$1000/both	B misdemeanor	Follow tiered proposal	<b>less time</b>
False Pretenses \$900 or More	13 VSA 2002	10 yr / \$2000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Home Improvement Fraud, Less than \$1000	13 VSA 2029	2 years/\$1000/both	A misdemeanor	Follow tiered proposal	<b>less time</b>
Home Improvement Fraud, Less than \$1000, 2 <sup>nd</sup> Offense	13 VSA 2029	3 years/\$5000/both	E felony	Follow tiered proposal	<b>less time</b>
<b>Home Improvement Fraud, More than \$1000 (or \$2500 aggregate)</b>	13 VSA 2029	3 years/\$5000/both	E felony	Follow tiered proposal	<b>less time up to 10K</b> <b>more time over 10K</b>

**Criminal Offense Classification Proposal “B” – Property Crimes & Frauds  
Draft 08-29-2019**

Home Improvement Fraud, More than \$1000 (or \$2500 aggregate), 2 <sup>nd</sup> Offense	13 VSA 2029	5 years/\$10000/both	D felony	Follow tiered proposal	same time up to 10K, more time over
Home Improvement Fraud – Registry Violations	13 VSA 2029(c) & (e)	2 years/\$1000/both	A misdemeanor		This is a status offense not subject to dollar amount tiers.
ID Theft- 1 <sup>st</sup> offense	13 VSA 2030	3 years/\$5000/both	E felony	E felony	Some variants of this offense are not susceptible to tiering
ID Theft – 2 <sup>nd</sup> offense	13 VSA 2030	10 years/\$1000/both	C felony	C felony	
Insurance Fraud, Less than \$900	13 VSA 2031	6 months /\$5000	C misdemeanor	Follow tiered proposal	Less time
Insurance Fraud, More than \$900	13 VSA 2031	5 years / \$10000	D felony	Follow tiered proposal	Less time under 10K, same time 10K, more time over 100K
Insurance Fraud, 2 <sup>nd</sup> Offense, any amount	13 VSA 2031	5 years / \$20000	D felony	Follow tiered proposal	less time under 10K, Same time 10K, more time over 10K
Petit Larceny, \$900 or Less	13 VSA 2602	1 year / \$1000 fine	B misdemeanor	Follow tiered proposal	less time
Grand Larceny, More than \$900	13 VSA 2601	10 years / \$5000 fine	C felony	Follow tiered proposal	less time under 100K, same time 100K
Larceny From Person	13 VSA 2503	10 years / \$500	C felony	C felony	This is often the go-to for robberies of retail/banking businesses. Because of the element of violence or intimidation, it might make sense to leave

**Criminal Offense Classification Proposal "B" – Property Crimes & Frauds  
Draft 08-29-2019**

					this one alone or adopt a modified tiered system enhanced by 2 classes (subject to Fel Class B cap).
Embezzlement \$100 or Less	13 VSA 2531	1 yr / \$1000/ both	B misdemeanor	Follow tiered proposal	<b>less time</b>
Embezzlement More than \$100	13 VSA 2531	10 years/\$10000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Embezzlement – Bank Officer	13 VSA 2532	10 years/\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Embezzlement - Trustee	13 VSA 2533	10 years/\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Embezzlement -Official Capacity	13 VSA 2537	10 years/\$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Stolen Property- Buy/Receive/Possess, \$900 or Less	13 VSA 2561	1 year / \$1000 fine	B misdemeanor	Follow tiered proposal	<b>Less time</b>
Stolen Property- Buy/Receive/Possess, More than \$900	13 VSA 2561	10 years / \$5000 fine	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Retail Theft, \$900 or Less	13 VSA 2577	6 months / \$500 /both	C misdemeanor	Follow tiered proposal	<b>Less time</b>
Retail Theft, More Than \$900	13 VSA 2577	10 years / \$1000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Retail Theft, Alter UPC label	13 VSA 2577	2 years / \$1000/both	A misdemeanor	A misdemeanor	
Retail Theft, 15 or More Altered UPC labels	13 VSA 2577	10 years/\$10,000/both	C felony	C felony	

**Criminal Offense Classification Proposal “B” – Property Crimes & Frauds  
Draft 08-29-2019**

Retail Theft – Manufacture/Sell/Possess tools or devices to shield merchandise	13 VSA 2577	10 years/\$10,000/both	C felony	C felony	
Theft of Services, \$900 or Less	13 VSA 2582	1 year/\$1,000/both	B misdemeanor	Follow tiered proposal	<b>less time</b>
Theft of Services, More than \$900	13 VSA 2582	10 years/\$5,000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K, <b>same time</b> 100K
Theft of Rented Property, \$900 or Less	13 VSA 2591	6 months/\$500/both	C misdemeanor	Follow tiered proposal	<b>less time</b>
<b>Theft of Rented Property, More than \$900</b>	13 VSA 2591	2 years/\$1000/both	A misdemeanor	Follow tiered proposal	<b>Less time</b> under 1K, <b>same time</b> 1K- 10K, <b>more time over 10K</b>
<b>Theft of Rented Property, More than \$900, 2<sup>nd</sup> Offense</b>	13 VSA 2591	5 years/\$5000/both	D felony	Follow tiered proposal	<b>more time 2<sup>ND</sup> offense over 10K</b>
Failure to Return Rented/Leased Vehicle	13 VSA 2592	3 years/\$3000/both	E felony	E felony	Makes sense given that rental/leased cars are worth a 5- digit number. No need to tier.
Failure to Return Rented/Leased Vehicle, 2 <sup>nd</sup> Offense	13 VSA 2592	5 years/\$5000/both	D felony	D felony	
False Claim, Less than \$500	13 VSA 3016	2 years/\$5000/both	A misdemeanor	Follow tiered proposal	<b>less time</b>
<b>False Claim, \$500 or More</b>	13 VSA 3016	5 years/\$10000/both	D felony	Follow tiered proposal	<b>less time</b> under 10K, <b>same time</b> 10K, <b>more time 100K</b>
<b>Unlawful Mischief, More than \$1000</b>	13 VSA 3701(a)	5yrs/\$5000/both	D felony	Follow tiered proposal	<b>less time</b> under 10K, <b>same time</b> 10K-

**Criminal Offense Classification Proposal "B" – Property Crimes & Frauds  
Draft 08-29-2019**

					100K, <b>more time</b> 100K+
Unlawful Mischief, More than \$250	13 VSA 3701(b)	1yr/\$1000/both	B misdemeanor	Follow tiered proposal	<b>less time</b> under 1K
Unlawful Mischief	13 VSA 3701(c)	6 mo/\$500/both	C misdemeanor	Follow tiered proposal	<b>less time</b>
Unlawful Mischief w / Explosive	13 VSA 3701(d)	5 yr / \$5000/both	D felony	D felony	
Timber Trespass-1 <sup>st</sup> offense	13 VSA 3606a	1 yr/\$20000/both	B misdemeanor	B misdemeanor	
Timber Trespass-2nd offense	13 VSA 3606a	2 yrs/\$50000/both	A misdemeanor	A misdemeanor	
Unlawful Trespass-Land	13 VSA 3705(a)	3mo/\$500/both	D misdemeanor	D misdemeanor	
Unlawful Trespass-Building	13 VSA 3705(c)	1 yr/\$500/both	B misdemeanor	B misdemeanor	
Unlawful Trespass-Dwelling	13 VSA 3705(d)	3 yrs /\$2000/both	E felony	E felony	
Unauthorized Book Removal from Library	13 VSA 3732	NMT \$50 (half to library, half to cover prosecution costs!)	E misdemeanor	E misdemeanor	Does this really need to be its own crime?
Opening a Dam	13 VSA 3733	5 years /\$500/both	D felony	Follow tiered proposal?	Shouldn't it matter how much damage one causes?
Motor Vehicle Trespass	13 VSA 3738	NMT \$500	E misdemeanor	E misdemeanor	General comment: E misdemeanors seem rather pointless.
Operate Vehicle on State-Owned Land	13 VSA 3739	NMT \$500	E misdemeanor	E misdemeanor	General comment: E misdemeanors seem rather pointless.

**Criminal Offense Classification Proposal “B” – Property Crimes & Frauds  
Draft 08-29-2019**

Operate Vehicle on State-Owned Land, Damage	13 VSA 3740	NMT \$500	E misdemeanor	Follow tiered proposal?	
Unauthorized Removal of Human Remains	13 VSA 3761	15 yrs/\$10000/both	C felony	C felony	
Grave Markers – Stealing, Removing, Etc	13 VSA 3767	5 yrs /\$5000/both	D felony	D felony	Didn't seem right for tiered valuation due to sentimental value
Grave Flowers/Plants – Stealing, Removing, Etc	13 VSA 3767	1 yr/\$500/both	B misdemeanor	B misdemeanor	Didn't seem right for tiered valuation due to sentimental value
Disturb a Funeral	13 VSA 3771	30 days/\$500/both	D misdemeanor	D misdemeanor	
Tapping Gas Pipeline-Fraud	13 VSA 3781	1 yr/\$1000/both	A misdemeanor	A misdemeanor	Hard to measure volume (value) of gas
Tapping Elec Lines	13 VSA 3782	2 yr/\$300/both	A misdemeanor	A misdemeanor	Hard to measure Kwh (value) of electricity
Interfere w/ Util Meter	13 VSA 3784	3 mo/\$100/both	D misdemeanor	D misdemeanor	
Injuring Lights	13 VSA 3785	3 mo/\$50/both	D misdemeanor	D misdemeanor	
Tapping Cable TV	13 VSA 3786	NMT \$100	E misdemeanor	E misdemeanor	General comment: E misdemeanors seem rather pointless.
Unfenced Holes in Ice	13 VSA 3831	NMT \$50	E misdemeanor	E misdemeanor	General comment: E misdemeanors seem rather pointless.
Removing Survey Marker	13 VSA 3834	NMT \$100	E misdemeanor	E misdemeanor	General comment: E misdemeanors seem rather pointless.
Computer Fraud \$500 or Less	13 VSA 4103	1 yr/\$500/both	B misdemeanor	Follow tiered proposal	<b>less time</b>

**Criminal Offense Classification Proposal “B” – Property Crimes & Frauds  
Draft 08-29-2019**

Computer Fraud \$500 or Less, 2 <sup>nd</sup> Offense	13 VSA 4103	2yrs/\$1,000/both	A misdemeanor	Follow tiered proposal	<b>same time</b>
Computer Fraud, More than \$500	13 VSA 4103	10 yrs/\$10,000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K <b>same time</b> over 100K
Alter/Damage Computer Network, \$500 or Less	13 VSA 4104	1yr/\$5000/both	B misdemeanor	Follow tiered proposal	<b>less time</b>
Alter/Damage Computer Network, \$500 or Less, 2 <sup>nd</sup> Offense	13 VSA 4104	2yrs/\$10,000/both	A misdemeanor	Follow tiered proposal	<b>same time</b>
Alter/Damage Computer Network, More than \$500	13 VSA 4104	10yrs/\$25,000/both	C felony	Follow tiered proposal	<b>less time</b> under 100K <b>same time</b> over 100K
Unauthorized Access Computer Network	13 VSA 4102	6mo/\$500/both	C misdemeanor	C misdemeanor	
Theft/Destruction Computer Network, \$500 or Less	13 VSA 4105	1yr/\$5000/both	B misdemeanor	Follow tiered proposal	
Theft/Destruction Computer Network, \$500 or Less, 2 <sup>nd</sup> Offense	13 VSA 4105	2yrs/\$10,000/both	A misdemeanor	Follow tiered proposal	<b>same time</b>
Theft/Destruction Network, More than \$500	13 VSA 4105	10yrs/\$25,000/both	C felony	Follow tiered proposal	<b>less time</b> under 10K, <b>same time</b> over 10K

Note:

- Arson is a hybrid crime, impacting property, safety, and public order. I did not include it above but can do so if desired.
- Let’s discuss fraud in commercial transactions (T13 Ch 49). Are commercial transaction still done this way? Part of UCC?



# Criminal Offense Classification Proposal “B” – Property Crimes & Frauds

## Draft 08-29-2019

### APPENDIX

- In 2010, South Carolina revised its dollar-value cutoffs to the following. No increase in property crime was observed.
  - Value < \$2,000 : 30 day maximum penalty
  - Value \$2,000 - \$10,000: 5 year maximum penalty
  - Value > \$10,000: 10 year maximum penalty
  
- What follows is a 50-state survey of felony cutoffs assembled by the Pew Charitable Trusts in 2017. Please note that for purposes of the survey, “felony” means more than *one* year in prison. **Thus, in summary, the chart represents in Vermont crime classification-speak, the dividing line between Class A and Class B misdemeanors.**

Figure 1  
**At Least 37 States Have Raised Felony Theft Thresholds Since 2000**  
 Higher sums are designed to take inflation into account

Year of change	State	Previous threshold	Enacted threshold	Legislation
2001	Oklahoma	\$50	\$500	S.B. 397
2002	Missouri	\$150	\$500	H.B. 1888
2003	Alabama	\$250	\$500	H.B. 491
	Mississippi	\$250	\$500	H.B. 1121
2004	Kansas	\$500	\$1,000	H.B. 2271
	Wyoming	\$500	\$1,000	S.F. 66
2005	South Dakota	\$500	\$1,000	S.B. 43
2006	Arizona	\$250	\$1,000	H.B. 2581
	New Mexico	\$250	\$500	H.B. 80
	Vermont	\$500	\$900	S.B. 285
2007	Colorado	\$500	\$1,000	S.B. 260
	Minnesota	\$500	\$1,000	H.F. 829
2009	Connecticut	\$1,000	\$2,000	H.B. 6576
	Delaware	\$1,000	\$1,500	H.B. 113
	Kentucky	\$300	\$500	H.B. 369
	Louisiana	\$300	\$500	H.B. 555
	Maryland	\$500	\$1,000	H.B. 66
	Montana	\$1,000	\$1,500	S.B. 476
	Oregon	\$750	\$1,000	H.B. 2023
	Washington	\$250	\$750	S.B. 6167
2010	California	\$400	\$950	A.B. 2372
	Illinois	\$300	\$500	S.B. 3797
	New Hampshire	\$500	\$1,000	S.B. 205
	South Carolina	\$1,000	\$2,000	S.B. 1154
	Utah	\$1,000	\$1,500	S.B. 10
2011	Arkansas	\$500	\$1,000	S.B. 570
	Nevada	\$250	\$650	A.B. 142
	Ohio	\$500	\$1,000	H.B. 86
2012	Georgia	\$500	\$1,500	H.B. 1176
	Rhode Island	\$500	\$1,500	H.B. 776A
2013	Colorado	\$1,000	\$2,000	H.B. 1160
	Indiana	any amount	\$750	H.B. 1006
	North Dakota	\$500	\$1,000	S.B. 251
2014	Alaska	\$500	\$750	S.B. 64
	Louisiana	\$500	\$750	H.B. 791
	Mississippi	\$500	\$1,000	H.B. 585
	Missouri	\$500	\$750	S.B. 491
2015	Alabama	\$500	\$1,500	S.B. 67
	Nebraska	\$500	\$1,500	L.B. 605
	Texas	\$1,500	\$2,500	H.B. 1396
2016	Alaska	\$750	\$1,000	S.B. 91
	Hawaii	\$300	\$750	H.B. 2561
	Kansas	\$1,000	\$1,500	H.B. 2462
	Maryland	\$1,000	\$1,500	S.B. 1005
	Oklahoma	\$500	\$1,000	H.B. 2751
	Tennessee	\$500	\$1,000	H.B. 2576

Note: The District of Columbia raised its felony theft threshold in 2010 but is not included in this report because its crime data are not directly comparable with state crime statistics.

Source: Pew's analysis of legislative information from the National Conference of State Legislatures  
 © 2017 The Pew Charitable Trusts