

HOUSE BILL REPORT

HB 2323

*As Reported By House Committee on:
Judiciary*

Title: An act relating to redefining certain property crimes.

Brief Description: Redefining some property crimes.

Sponsor(s): Representatives Ludwig, Wineberry, Locke and Riley.

Brief History:

Reported by House Committee on:
Judiciary, January 15, 1992, DPS.

**HOUSE COMMITTEE ON
JUDICIARY**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 11 members: Representatives Appelwick, Chair; Ludwig, Vice Chair; Padden, Ranking Minority Member; Paris, Assistant Ranking Minority Member; Broback; Forner; Hargrove; R. Meyers; Riley; Scott; and D. Sommers.

Minority Report: *Without recommendation.* Signed by 3 members: Representatives Mielke; Tate; and Vance.

Staff: Pat Shelledy (786-7149).

Background:

The seriousness of crimes of theft and crimes related to theft are determined by the stolen item's value. The greater the value, the greater degree of crime and thus likely punishment. "Value" means the fair market value of the property or services at the time of the theft. The degrees of crimes of theft and related crimes are as follows:

1. Theft degrees determined by value of property:

- First degree: value exceeds \$1,500
- Second degree: value exceeds \$250 but is \$1,500 or less
- Third degree: value is \$250 or less

A person also commits theft in the second degree if the person steals a car or firearm of a value less than \$1,500.

2. Unlawful Issuance of Checks determined by the aggregate value of the checks issued unlawfully:

- Class C felony: value exceeds \$250
- Gross Misdemeanor: value is \$250 or less

3. Possession of stolen property degrees determined by value of property:

- First degree: value exceeds \$1,500
- Second degree: value exceeds \$250 but is \$1,500 or less
value of stolen car is less than \$1,500
- Third degree: value is \$250 or less

4. Property or services whose values are not readily ascertainable under standards determining value for items such as property, services, commercial property, tickets, or other legal instruments that create or discharge a legal debt or obligation are considered to have a value of \$250 or less.

The monetary values for determining the seriousness of the crimes have not changed since 1975 when the crimes were first enacted in the Washington Criminal Code of 1975.

The superior court has continuing jurisdiction over a felony offender for 10 years subsequent to imposition of the defendant's sentence for purposes of collecting restitution, regardless of the length of the sentence, supervision, or the statutory maximum. The 10-year rule applies even if a case originally charged as a felony in superior court is reduced to a gross misdemeanor. In contrast, the municipal and district courts only have continuing jurisdiction for two years.

Summary of Substitute Bill:

The monetary values for determining the seriousness and degrees of crimes for theft and crimes related to theft are increased. The increases are as follows:

1. Theft:

- First degree: value exceeds \$2,500
- Second degree: value exceeds \$500 but is \$2,500 or less
- Third degree: value is \$500 or less

Second-degree theft values for stolen cars and firearms are less than \$2,500.

2. Unlawful issuance of bank checks determined by the aggregate value of the checks issued unlawfully:

- Class C felony: value exceeds \$500
- Gross Misdemeanor: value is \$500 or less

3. Possession of stolen property:

- First degree: value exceeds \$2,500
- Second degree: value exceeds \$500 but is \$2,500 or less
value of stolen car is less than \$2,500
- Third degree: value is \$500 or less

4. Property or services whose value cannot be ascertained under the standards to determine the value of property, services, commercial paper, tickets, or other instruments that create or discharge a debt or obligation, are considered to have a value of \$500 or less.

The definition of "value" is changed. The value of stolen property is as follows: If the property stolen was less than five years old, the value is the cost to replace the item with a new item of similar quality at retail cost. If the property is more than five years old, the value is the item's fair market value. A stolen motor vehicle's value is the fair market value regardless of the vehicle's age.

The municipal, district, and superior courts will have continuing jurisdiction over the defendant for the purposes of collecting restitution for 10 years subsequent to the imposition of the sentence. The Department of Corrections or the county or city probation department that has jurisdiction over the offender is responsible for monitoring payment of restitution.

The act will apply to crimes committed on or after the effective date of the act.

Substitute Bill Compared to Original Bill: A new definition of "value" is added. The cutoff ranges between third, second, and first degrees for the property crimes are changed so that values less than \$500 (instead of \$1,000 as provided in the original bill) are gross misdemeanors; values between \$500 and \$2,500 (instead of \$1,000 to \$2,000 as provided in the original bill) are second-degree felonies; and values exceeding \$2,500 (instead of \$2,000) are first-degree felonies. The authority of the court to have jurisdiction over the offender for 10 years to collect restitution is added. The express provision that the act applies to crimes committed on or after the effective date is added.

Fiscal Note: Requested January 16, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: The values need to be changed to keep pace with inflation since 1975. The bill will promote uniformity in prosecutor filing practices across the state. Currently, disparity exists because different prosecutors have different filing standards. Consequently, whether a defendant is prosecuted as a felon or a misdemeanor depends on the county in which the crime occurred rather than the item's value. Efficiency in court administration will be promoted because the superior court will be able to give more attention to more serious crimes.

Testimony Against: Raising values will encourage professional shoplifters to steal items with greater value and still avoid the felony limit. The district courts will get more clogged than they already are with the existing caseload. The ability of the prosecutors to reduce a charge in exchange for a plea on a lesser offense expedites handling of the case. Victims will suffer because the superior court has a 10-year period to collect restitution, and the lower courts only have a two-year period to collect restitution.

Witnesses: Jim Sedney, Washington Association of Criminal Defense Lawyers and Washington Defender Association (in favor); Judge Robert McBeth, Legislative Chair, Washington District and Municipal Court Judges Association (in favor); Mike Redman, Washington Association of Prosecuting Attorneys (opposed); Mike Patrick, Washington State Council of Police Officers (opposed); and Jeff Cox, Washington Retail Association (opposed).