

SENATE BILL NO. 2210

Introduced by

Senators Traynor, Watne, W. Stenehjem

Representative Mahoney

1 A BILL for an Act to amend and reenact sections 12.1-23-05, 12.1-24-01, and 12.1-24-03 of the
2 North Dakota Century Code, relating to the grading of offenses for certain crimes.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 12.1-23-05 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **12.1-23-05. Grading of theft offenses.**

- 7 1. Notwithstanding the provisions of subsection 2, theft under this chapter is a class B
8 felony if the property or services stolen exceed ten thousand dollars in value or are
9 acquired or retained by a threat to commit a class A or class B felony or to inflict
10 serious bodily injury on the person threatened or on any other person.
- 11 2. Theft under this chapter is a class C felony if:
- 12 a. The property or services stolen exceed ~~five hundred~~ one thousand dollars in
13 value;
- 14 b. The property or services stolen are acquired or retained by threat and (1) are
15 acquired or retained by a public servant by a threat to take or withhold official
16 action, or (2) exceed fifty dollars in value;
- 17 c. The property or services stolen exceed fifty dollars in value and are acquired
18 or retained by a public servant in the course of official duties;
- 19 d. The property stolen is a firearm, ammunition, explosive or destructive device,
20 or an automobile, aircraft, or other motor-propelled vehicle;
- 21 e. The property consists of any government file, record, document, or other
22 government paper stolen from any government office or from any public
23 servant;

- 1 f. The defendant is in the business of buying or selling stolen property and the
2 defendant receives, retains, or disposes of the property in the course of that
3 business;
- 4 g. The property stolen consists of any implement, paper, or other thing uniquely
5 associated with the preparation of any money, stamp, bond, or other
6 document, instrument, or obligation of this state;
- 7 h. The property stolen consists of livestock taken from the premises of the
8 owner;
- 9 i. The property stolen consists of a key or other implement uniquely suited to
10 provide access to property the theft of which would be a felony and it was
11 stolen to gain such access; or
- 12 j. The property stolen is a card, plate, or other credit device existing for the
13 purpose of obtaining money, property, labor, or services on credit, or is a debit
14 card, electronic fund transfer card, code, or other means of access to an
15 account for the purposes of initiating electronic fund transfers.
- 16 3. All other theft under this chapter is a class A misdemeanor, unless the
17 requirements of subsection 4 are met.
- 18 4. Theft under this chapter of property or services of a value not exceeding ~~two~~ five
19 ~~hundred fifty~~ dollars ~~shall be~~ is a class B misdemeanor if:
- 20 a. The theft was not committed by threat;
- 21 b. The theft was not committed by deception by one who stood in a confidential
22 or fiduciary relationship to the victim of the theft; and
- 23 c. The defendant was not a public servant or an officer or employee of a
24 financial institution who committed the theft in the course of official duties.
- 25 The special classification provided in this subsection ~~shall apply~~ applies if the
26 offense is classified under this subsection in the charge or if, at sentencing, the
27 required factors are established by a preponderance of the evidence.
- 28 5. Notwithstanding ~~the provisions of~~ subsection 3 of section 12.1-06-01, an attempt to
29 commit a theft under this chapter is punishable equally with the completed offense
30 when the actor has completed all of the conduct which ~~he~~ the actor believes

necessary on ~~his~~ the actor's part to complete the theft except receipt of the property.

6. For purposes of grading, the amount involved in a theft under this chapter ~~shall be~~ is the highest value by any reasonable standard, regardless of the actor's knowledge of ~~such~~ that value, of the property or services which were stolen by the actor, or which the actor believed that the actor was stealing, or which the actor could reasonably have anticipated to have been the property or services involved. Thefts committed pursuant to one scheme or course of conduct, whether from the same person or several persons, may be charged as one offense and the amounts proved to have been stolen may be aggregated in determining the grade of the offense.

SECTION 2. AMENDMENT. Section 12.1-24-01 of the North Dakota Century Code is amended and reenacted as follows:

12.1-24-01. Forgery or counterfeiting.

1. A person is guilty of forgery or counterfeiting if, with intent to deceive or harm the government or another person, or with knowledge that ~~he~~ that person is facilitating such deception or harm by another person, ~~he~~ that person:
 - a. Knowingly and falsely makes, completes, or alters any writing; or
 - b. Knowingly utters or possesses a forged or counterfeited writing.
2. Forgery or counterfeiting is:
 - a. A class B felony if:
 - (1) The actor forges or counterfeits an obligation or other security of the government; or
 - (2) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ten thousand dollars.
 - b. A class C felony if:
 - (1) The actor is a public servant or an officer or employee of a financial institution and the offense is committed under color of office or is made possible by ~~his~~ the actor's office;

- (2) The actor forges or counterfeits foreign money or other legal tender, or utters or possesses any forged or counterfeited obligation or security of the government or foreign money or legal tender;
- (3) The actor forges or counterfeits any writing from plates, dies, molds, photographs, or other similar instruments designed for multiple reproduction;
- (4) The actor forges or counterfeits a writing which purports to have been made by the government; or
- (5) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ~~one~~ two hundred fifty dollars.

c. A class A misdemeanor in all other cases.

SECTION 3. AMENDMENT. Section 12.1-24-03 of the North Dakota Century Code is amended and reenacted as follows:

12.1-24-03. Deceptive writings.

1. A person is guilty of an offense if, with intent to deceive or harm the government or another person, or with knowledge that ~~he~~ that person is facilitating such a deception or harm by another person, ~~he~~ that person knowingly issues a writing without authority to issue it or knowingly utters or possesses a deceptive writing.
2. The offense is ~~a~~:
 - a. A class B felony if it is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ten thousand dollars.
 - b. ~~The offense is a~~ A class C felony if:
 - a. (1) The actor is a public servant or an officer or employee of a financial institution and the offense is committed under color of office or is made possible by ~~his~~ the actor's office; or
 - b. (2) The offense is committed pursuant to a scheme to defraud another or others of money or property of a value in excess of ~~one~~ two hundred fifty dollars.
 - c. ~~Otherwise it is a~~ A class A misdemeanor in all other cases.