



NORTH DAKOTA ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

To: Alternatives to Incarceration Committee, Chairman Stan Lyson

Re: Recommendation regarding the grading of theft offenses

Quick Facts

1. The \$500 Felony offense level was enacted more than 30 years ago.
2. According to the study prepared by Legislative Counsel for this Committee, the \$500 amount is equal to approximately \$2,200 today.
3. The states of Iowa, Minnesota, South Dakota, and Wyoming all have statutes that require approximately \$1,000 to be charged with a felony. Wisconsin requires a value of \$2,500.
4. Felonies take greater judicial and corrections resources. Felonies also are more likely to require jail space.

Recommendation: C Felony Offense be increased to \$1,500

The Criminal Defense Lawyers recommend that the Alternatives to Incarceration Committee include in its report a recommendation that legislation be drafted and introduced in the 2013 legislature raising the dollar amount required to charge a theft as a C Felony to \$1,500. Currently, the theft of anything \$500 or above is a felony, below \$500 is a misdemeanor offense. The request to change the dollar amount takes into consideration several factors including a review of the statutes of our neighboring states; lack of change to the statute in over thirty (30) years coupled with significant change to the Consumer Price Index (CPI); reduced resources available to the State of North Dakota due to population changes; the amount of resources expended on individuals convicted of a felony; and our collective experiences as practitioners in the current climate and economy.

As you may know, anyone convicted of a felony in ND is sentenced to probation through the North Dakota Department of Corrections. At the very least, those individuals are entitled to two hearings and a trial, an attorney at public expense if they cannot afford one, and often take more time from the judicial system simply because of the level of offense. Simply put, felonies are expensive. Our state and county resources pay the judge, prosecutor, public attorney if applicable, the probation officer, court officers, and jailers. As we face full jails, large and unmanageable caseloads for probation officers, and increased court dockets, a change to theft gradation is a simple, housekeeping update to our law that just makes sense.

Our neighboring states have increased the amounts on felony level offenses over the last decade. The report by Legislative Counsel for this Committee states that \$500 in the 1970's, would be worth approximately \$2,200 today. The state has reached a critical point where the law with respect to felony theft has left it decades behind at a time where population increases continue to put strains on our judicial and correctional systems.

We know and understand that the lawmakers and citizens of North Dakota do not want to be "soft on crime". Therefore, our recommendation is both conservative and fact based. It does not request that this body or the 2013 legislature reach beyond inflation or the price index. Instead, we ask that the felony level offense be set at \$1,500 as an update to our law – one that is much needed and will have a positive impact on our overtaxed resources.