

1 HB218  
2 126670-2  
3 By Representative Scott  
4 RFD: Judiciary  
5 First Read: 10-MAR-11

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7  
8 SYNOPSIS: Under existing law, felony criminal offenses  
9 and penalties are classified into three  
10 classifications: Class A, Class B, and Class C.

11 This bill would add the classification of  
12 Class D felony as a fourth classification of  
13 criminal felony, and provide penalties for the new  
14 classification.

15 This bill would provide that the Alabama  
16 Habitual Offender Law would not apply to Class D  
17 felonies and for the treatment of Class D felonies  
18 when the defendant is given a split sentence.

19 This bill would reclassify certain offenses,  
20 using a new Class D penalty and fix the threshold  
21 for felony theft and would amend existing penalties  
22 and value requirements relating to criminal  
23 solicitation, attempt to commit a crime, criminal  
24 conspiracy, burglary in the third degree,  
25 possession of burglar's tools, criminal mischief,  
26 criminal tampering in the first degree, theft of  
27 property, theft of lost property, theft of

1 services, breaking and entering a motor vehicle,  
2 receiving stolen property, theft of utility  
3 services, fraudulent leasing, obstructing justice  
4 using a false identity, forgery, possession of a  
5 forged instrument, escape in the third degree, bail  
6 jumping, and hindering prosecution.

7 This bill would also create the crime of  
8 burglary in the fourth degree making entering or  
9 remaining unlawfully in a building a new Class D  
10 felony, while making entering or remaining  
11 unlawfully in a dwelling a Class C felony.

12 This bill would create the crimes of theft  
13 of services in the fourth degree, receiving stolen  
14 property in the fourth degree, and theft of lost  
15 property in the fourth degree, and specify  
16 penalties.

17 Amendment 621 of the Constitution of Alabama  
18 of 1901, now appearing as Section 111.05 of the  
19 Official Recompilation of the Constitution of  
20 Alabama of 1901, as amended, prohibits a general  
21 law whose purpose or effect would be to require a  
22 new or increased expenditure of local funds from  
23 becoming effective with regard to a local  
24 governmental entity without enactment by a 2/3 vote  
25 unless: it comes within one of a number of  
26 specified exceptions; it is approved by the  
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to  
2 the entity for the purpose.

3 The purpose or effect of this bill would be  
4 to require a new or increased expenditure of local  
5 funds within the meaning of the amendment. However,  
6 the bill does not require approval of a local  
7 governmental entity or enactment by a 2/3 vote to  
8 become effective because it comes within one of the  
9 specified exceptions contained in the amendment.

10  
11 A BILL  
12 TO BE ENTITLED  
13 AN ACT  
14

15 Relating to crimes and offenses and criminal  
16 sentencing; to amend Sections 13A-4-1, 13A-4-2, 13A-4-3,  
17 13A-5-3, 13A-5-4, 13A-5-6, 13A-5-9, 13A-5-11, 13A-5-13,  
18 13A-7-7, 13A-7-8, 13A-7-21, 13A-7-22, 13A-7-23, 13A-7-25,  
19 13A-8-1, 13A-8-3, 13A-8-4, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-9,  
20 13A-8-10.1, 13A-8-10.2, 13A-8-10.3, 13A-8-11, 13A-8-17,  
21 13A-8-18, 13A-8-19, 13A-8-23, 13A-8-144, 13A-8-194, 13A-9-2,  
22 13A-9-3, 13A-9-5, 13A-9-6, 13A-9-14, 13A-10-33, 13A-10-39,  
23 13A-10-40, 13A-10-43, and 13A-10-44, Code of Alabama 1975,  
24 relating to a class D felony criminal classification and  
25 application to the Alabama Habitual Offender Law and split  
26 sentencing; relating to theft and other offenses; to increase  
27 the threshold for theft offenses; to reclassify offenses using

1 a new Class D felony; to clarify other felony class based  
2 offenses and respective value requirements; to add additional  
3 offenses relating to burglary, theft, and receiving stolen  
4 property; and in connection therewith would have as its  
5 purpose or effect the requirement of a new or increased  
6 expenditure of local funds within the meaning of Amendment 621  
7 of the Constitution of Alabama of 1901, now appearing as  
8 Section 111.05 of the Official Recompilation of the  
9 Constitution of Alabama of 1901, as amended, Code of Alabama  
10 1975, to add a new classification of criminal felony to be  
11 known as Class D felonies and to provide penalties for the new  
12 classification; to provide that the Alabama Habitual Offender  
13 Law would not apply to Class D felonies; and to provide for  
14 the application of the split sentence law to Class D felonies.  
15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. 13A-5-3, 13A-5-4, 13A-5-6, 13A-5-9,  
17 13A-5-11, and 13A-5-13, Code of Alabama 1975, are amended to  
18 read as follows:

19 "§13A-5-3.

20 "(a) Offenses are designated as felonies,  
21 misdemeanors or violations.

22 "(b) Felonies are classified according to the  
23 relative seriousness of the offense into ~~three~~ four  
24 categories:

25 "(1) Class A felonies;

26 "(2) Class B felonies; ~~and~~

27 "(3) Class C felonies; ~~;~~ and

1                   "(4) Class D felonies.

2                   "(c) Misdemeanors are classified according to the  
3 relative seriousness of the offense into three categories:

4                   "(1) Class A misdemeanors;

5                   "(2) Class B misdemeanors; and

6                   "(3) Class C misdemeanors.

7                   "(d) Violations are not classified.

8                   "§13A-5-4.

9                   "(a) The particular classification of each felony  
10 defined in this title, except murder under Section 13A-6-2, is  
11 expressly designated in the chapter or article defining it.  
12 Any offense defined outside this title which is declared by  
13 law to be a felony without specification of its classification  
14 or punishment is classified and punishable as a Class C  
15 felony.

16                   "(b) The particular classification of each  
17 misdemeanor defined in this title is expressly designated in  
18 the chapter or article defining it. Any offense defined  
19 outside this title which is declared by law to be a  
20 misdemeanor without specification as to classification or  
21 punishment is punishable as a Class C misdemeanor.

22                   "(c) Every violation defined in this title is  
23 expressly designated as such. Any offense defined outside this  
24 title without specification as to punishment or as to felony  
25 or misdemeanor is a violation.

26                   "§13A-5-6.

1           "(a) Sentences for felonies shall be for a definite  
2 term of imprisonment, which imprisonment includes hard labor,  
3 within the following limitations:

4           "(1) For a Class A felony, for life or not more than  
5 99 years or less than 10 years.

6           "(2) For a Class B felony, not more than 20 years or  
7 less than 2 years.

8           "(3) For a Class C felony, not more than 10 years or  
9 less than 1 year and 1 day.

10           "(4) For a Class D felony, not more than three years  
11 or less than one year and 1 day.

12           "~~(4)~~ (5) For a Class A felony in which a firearm or  
13 deadly weapon was used or attempted to be used in the  
14 commission of the felony, or a Class A felony criminal sex  
15 offense involving a child as defined in Section 15-20-21(5),  
16 not less than 20 years.

17           "~~(5)~~ (6) For a Class B or C felony in which a firearm  
18 or deadly weapon was used or attempted to be used in the  
19 commission of the felony, or a Class B felony criminal sex  
20 offense involving a child as defined in Section 15-20-21(5),  
21 not less than 10 years.

22           "(7) Class D felonies shall not be considered for  
23 any purpose under Section 13A-5-9.

24           "(b) The actual time of release within the  
25 limitations established by subsection (a) of this section  
26 shall be determined under procedures established elsewhere by  
27 law.

1           "(c) In addition to any penalties heretofore or  
2 hereafter provided by law, in all cases where an offender is  
3 designated as a sexually violent predator pursuant to Section  
4 15-20-25.3, or where an offender is convicted of a Class A  
5 felony criminal sex offense involving a child as defined in  
6 Section 15-20-21(5), and is sentenced to a county jail or the  
7 Alabama Department of Corrections, the sentencing judge shall  
8 impose an additional penalty of not less than 10 years of  
9 post-release supervision to be served upon the defendant's  
10 release from incarceration.

11           "§13A-5-9.

12           "(a) In all cases when it is shown that a criminal  
13 defendant has been previously convicted of a Class A, Class B,  
14 or a Class C felony and after the conviction has committed  
15 another Class A, Class B, or Class C felony, he or she must be  
16 punished as follows:

17           "(1) On conviction of a Class C felony, he or she  
18 must be punished for a Class B felony.

19           "(2) On conviction of a Class B felony, he or she  
20 must be punished for a Class A felony.

21           "(3) On conviction of a Class A felony, he or she  
22 must be punished by imprisonment for life or for any term of  
23 not more than 99 years but not less than 15 years.

24           "(b) In all cases when it is shown that a criminal  
25 defendant has been previously convicted of any two felonies  
26 that are Class A, Class B, or Class C felonies and after ~~such~~



1 the convictions has committed another Class A, Class B, or  
2 Class C felony, he or she must be punished as follows:

3 "(1) On conviction of a Class C felony, he or she  
4 must be punished for a Class A felony.

5 "(2) On conviction of a Class B felony, he or she  
6 must be punished by imprisonment for life or for any term of  
7 not more than 99 years but not less than 15 years.

8 "(3) On conviction of a Class A felony, he or she  
9 must be punished by imprisonment for life or for any term of  
10 not less than 99 years.

11 "(c) In all cases when it is shown that a criminal  
12 defendant has been previously convicted of any three felonies  
13 that are Class A, Class B, or Class C felonies and after such  
14 convictions has committed another Class A, Class B, or Class C  
15 felony, he or she must be punished as follows:

16 "(1) On conviction of a Class C felony, he or she  
17 must be punished by imprisonment for life or for any term of  
18 not more than 99 years but not less than 15 years.

19 "(2) On conviction of a Class B felony, he or she  
20 must be punished by imprisonment for life or any term of not  
21 less than 20 years.

22 "(3) On conviction of a Class A felony, where the  
23 defendant has no prior convictions for any Class A felony, he  
24 or she must be punished by imprisonment for life or life  
25 without the possibility of parole, in the discretion of the  
26 trial court.

1           "(4) On conviction of a Class A felony, where the  
2 defendant has one or more prior convictions for any Class A  
3 felony, he or she must be punished by imprisonment for life  
4 without the possibility of parole.

5           "§13A-5-11.

6           "(a) A sentence to pay a fine for a felony shall be  
7 for a definite amount, fixed by the court, within the  
8 following limitations:

9           "(1) For a Class A felony, not more than \$60,000;

10          "(2) For a Class B felony, not more than \$30,000;

11          "(3) For a Class C felony, not more than \$15,000; or

12          "(4) For a Class D felony, not more than \$7,500; or

13          "~~(4)~~(5) Any amount not exceeding double the  
14 pecuniary gain to the defendant or loss to the victim caused  
15 by the commission of the offense.

16          "(b) As used in this section, "gain" means the  
17 amount of money or the value of property derived from the  
18 commission of the crime, less the amount of money or the value  
19 of property returned to the victim of the crime or seized or  
20 surrendered to lawful authority prior to the time sentence is  
21 imposed. "Value" shall be determined by the standards  
22 established in subdivision (14) of Section 13A-8-1.

23          "(c) The court may conduct a hearing upon the issue  
24 of defendant's gain or the victim's loss from the crime  
25 according to procedures established by rule of court.

26          "(d) This section shall not apply if a higher fine  
27 is otherwise authorized by law for a specific crime.

1           "§13A-5-13.

2           "(a) The Legislature finds and declares the  
3 following:

4           "(1) It is the right of every person, regardless of  
5 race, color, religion, national origin, ethnicity, or physical  
6 or mental disability, to be secure and protected from threats  
7 of reasonable fear, intimidation, harassment, and physical  
8 harm caused by activities of groups and individuals.

9           "(2) It is not the intent, by enactment of this  
10 section, to interfere with the exercise of rights protected by  
11 the Constitution of the State of Alabama or the United States.

12           "(3) The intentional advocacy of unlawful acts by  
13 groups or individuals against other persons or groups and  
14 bodily injury or death to persons is not constitutionally  
15 protected when violence or civil disorder is imminent, and  
16 poses a threat to public order and safety, and such conduct  
17 should be subjected to criminal sanctions.

18           "(b) The purpose of this section is to impose  
19 additional penalties where it is shown that a perpetrator  
20 committing the underlying offense was motivated by the  
21 victim's actual or perceived race, color, religion, national  
22 origin, ethnicity, or physical or mental disability.

23           "(c) A person who has been found guilty of a crime,  
24 the commission of which was shown beyond a reasonable doubt to  
25 have been motivated by the victim's actual or perceived race,  
26 color, religion, national origin, ethnicity, or physical or  
27 mental disability, shall be punished as follows:

1           "(1) Felonies:

2           "a. On conviction of a Class A felony that was found  
3 to have been motivated by the victim's actual or perceived  
4 race, color, religion, national origin, ethnicity, or physical  
5 or mental disability, the sentence shall not be less than 15  
6 years.

7           "b. On conviction of a Class B felony that was found  
8 to have been motivated by the victim's actual or perceived  
9 race, color, religion, national origin, ethnicity, or physical  
10 or mental disability, the sentence shall not be less than 10  
11 years.

12           "c. On conviction of a Class C felony that was found  
13 to have been motivated by the victim's actual or perceived  
14 race, color, religion, national origin, ethnicity, or physical  
15 or mental disability, the sentence shall not be less than two  
16 years.

17           "d. On conviction of a Class D felony that was found  
18 to have been motivated by the victim's actual or perceived  
19 race, color, religion, national origin, ethnicity, or physical  
20 or mental disability, the sentence shall not be less than 18  
21 months.

22           "d.e. For purposes of this subdivision, a criminal  
23 defendant who has been previously convicted of any felony  
24 Class A, B, or C felony, and receives an enhanced sentence  
25 pursuant to this section is also subject to enhanced  
26 punishment under the Alabama Habitual Felony Offender Act,  
27 Section 13A-5-9.

1                   "(2) Misdemeanors:

2                   "On conviction of a misdemeanor which was found  
3 beyond a reasonable doubt to have been motivated by the  
4 victim's actual or perceived race, color, religion, national  
5 origin, ethnicity, or physical or mental disability, the  
6 defendant shall be sentenced for a Class A misdemeanor, except  
7 that the defendant shall be sentenced to a minimum of three  
8 months."

9                   Section 2. The incarceration portion of a split  
10 sentence imposed for a Class D felony pursuant to Section  
11 15-18-8, Code of Alabama 1975, shall not exceed 12 months.

12                   Section 3. Sections 13A-4-1, 13A-4-2, 13A-4-3,  
13 13A-7-7, 13A-7-8, 13A-7-21, 13A-7-22, 13A-7-23, 13A-7-25,  
14 13A-8-1, 13A-8-3, 13A-8-4, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-9,  
15 13A-8-10.1, 13A-8-10.2, 13A-8-10.3, 13A-8-11, 13A-8-17,  
16 13A-8-18, 13A-8-19, 13A-8-23, 13A-8-144, 13A-8-194, 13A-9-2,  
17 13A-9-3, 13A-9-5, 13A-9-6, 13A-9-14, 13A-10-33, 13A-10-39,  
18 13A-10-40, 13A-10-43, and 13A-10-44, Code of Alabama 1975, are  
19 amended to read as follows:

20                   "§13A-4-1.

21                   "(a) A person is guilty of criminal solicitation if,  
22 with the intent that another person engage in conduct  
23 constituting a crime, he or she solicits, requests, commands  
24 or importunes such other person to engage in such conduct.

25                   "A person may not be convicted of criminal  
26 solicitation upon the uncorroborated testimony of the person  
27 allegedly solicited, and there must be proof of circumstances

1 corroborating both the solicitation and the defendant's  
2 intent.

3 "(b) A person is not liable under this section if,  
4 under circumstances manifesting a voluntary and complete  
5 renunciation of his or her criminal intent, he or she (1)  
6 notified the person solicited of his or her renunciation and  
7 (2) gave timely and adequate warning to the law enforcement  
8 authorities or otherwise made a substantial effort to prevent  
9 the commission of the criminal conduct solicited. The burden  
10 of injecting this issue is on the defendant, but this does not  
11 shift the burden of proof.

12 "(c) A person is not liable under this section when  
13 his or her solicitation constitutes conduct of a kind that is  
14 necessarily incidental to the commission of the offense  
15 solicited. When the solicitation constitutes an offense other  
16 than criminal solicitation which is related to but separate  
17 from the offense solicited, the defendant is guilty of such  
18 related offense only and not of criminal solicitation.

19 "(d) It is no defense to a prosecution for criminal  
20 solicitation that the person solicited could not be guilty of  
21 the offense solicited because of any of the following:

22 "(1) Criminal irresponsibility or other legal  
23 incapacity or exemption; ~~or.~~

24 "(2) Unawareness of the criminal nature of the  
25 conduct solicited or of the defendant's criminal purpose; ~~or.~~

26 "(3) Any other factor precluding the mental state  
27 required for the commission of the offense in question.

1           "(e) It is no defense to a prosecution for criminal  
2 solicitation that the defendant belongs to a class of persons  
3 who by definition are legally incapable in an individual  
4 capacity of committing the offense that he or she solicited  
5 another to commit.

6           "(f) Criminal solicitation is a:

7           "(1) Class A felony if the offense solicited is  
8 murder.

9           "(2) Class B felony if the offense solicited is a  
10 Class A felony.

11           "(3) Class C felony if the offense solicited is a  
12 Class B felony.

13           "(4) Class D felony if the offense solicited is a  
14 Class C felony.

15           "~~(4)~~ (5) Class A misdemeanor if the offense solicited  
16 is a Class ~~C~~ D felony.

17           "~~(5)~~ (6) Class B misdemeanor if the offense solicited  
18 is a Class A misdemeanor.

19           "~~(6)~~ (7) Class C misdemeanor if the offense solicited  
20 is a Class B misdemeanor.

21           "~~(7)~~ (8) Violation if the offense solicited is a  
22 Class C misdemeanor.

23           "§13A-4-2.

24           "(a) A person is guilty of an attempt to commit a  
25 crime if, with the intent to commit a specific offense, he or  
26 she does any overt act towards the commission of such offense.

1           "(b) It is no defense under this section that the  
2 offense charged to have been attempted was, under the  
3 attendant circumstances, factually or legally impossible of  
4 commission, if such offense could have been committed had the  
5 attendant circumstances been as the defendant believed them to  
6 be.

7           "(c) A person is not liable under this section if,  
8 under circumstances manifesting a voluntary and complete  
9 renunciation of this criminal intent, he or she avoided the  
10 commission of the offense attempted by abandoning his or her  
11 criminal effort and, if mere abandonment is insufficient to  
12 accomplish such avoidance, by taking further and affirmative  
13 steps which prevented the commission thereof. The burden of  
14 injecting this issue is on the defendant, but this does not  
15 shift the burden of proof.

16           "(d) An attempt is a:

17           "(1) Class A felony if the offense attempted is  
18 murder.

19           "(2) Class B felony if the offense attempted is a  
20 Class A felony.

21           "(3) Class C felony if the offense attempted is a  
22 Class B felony.

23           "(4) Class D felony if the offense attempted is a  
24 Class C felony.

25           "~~(4)~~ (5) Class A misdemeanor if the offense attempted  
26 is a Class C D felony.



1           "~~(5)~~(6) Class B misdemeanor if the offense attempted  
2 is a Class A misdemeanor.

3           "~~(6)~~(7) Class C misdemeanor if the offense attempted  
4 is a Class B misdemeanor.

5           "~~(7)~~(8) Violation if the offense attempted is a  
6 Class C misdemeanor.

7           "§13A-4-3.

8           "(a) A person is guilty of criminal conspiracy if,  
9 with the intent that conduct constituting an offense be  
10 performed, he or she agrees with one or more persons to engage  
11 in or cause the performance of such conduct, and any one or  
12 more of such persons does an overt act to effect an objective  
13 of the agreement.

14           "(b) If a person knows or should know that one with  
15 whom he or she agrees has in turn agreed or will agree with  
16 another to effect the same criminal objective, he or she shall  
17 be deemed to have agreed with such other person, whether or  
18 not he or she knows the other's identity.

19           "(c) A person is not liable under this section if,  
20 under circumstances manifesting a voluntary and complete  
21 renunciation of his or her criminal purpose, he or she gave a  
22 timely and adequate warning to law enforcement authorities or  
23 made a substantial effort to prevent the enforcement of the  
24 criminal conduct contemplated by the conspiracy. Renunciation  
25 by one conspirator, however, does not affect the liability of  
26 another conspirator who does not join in the abandonment of  
27 the conspiratorial objective. The burden of injecting the

1 issue of renunciation is on the defendant, but this does not  
2 shift the burden of proof.

3 "(d) It is no defense to a prosecution for criminal  
4 conspiracy that:

5 "(1) The person, or persons, with whom defendant is  
6 alleged to have conspired has been acquitted, has not been  
7 prosecuted or convicted, has been convicted of a different  
8 offense, or is immune from prosecution, or

9 "(2) The person, or persons, with whom defendant  
10 conspired could not be guilty of the conspiracy or the object  
11 crime because of lack of mental responsibility or culpability,  
12 or other legal incapacity or defense, or

13 "(3) The defendant belongs to a class of persons who  
14 by definition are legally incapable in an individual capacity  
15 of committing the offense that is the object of the  
16 conspiracy.

17 "(e) A conspirator is not liable under this section  
18 if, had the criminal conduct contemplated by the conspiracy  
19 actually been performed, he or she would be immune from  
20 liability under the law defining the offense or as an  
21 accomplice under Section 13A-2-24.

22 "(f) Liability as accomplice. - Accomplice liability  
23 for offenses committed in furtherance of a conspiracy is to be  
24 determined as provided in Section 13A-2-23.

25 "(g) Criminal conspiracy is a:

26 "(1) Class A felony if an object of the conspiracy  
27 is murder.

1           "(2) Class B felony if an object of the conspiracy  
2 is a Class A felony.

3           "(3) Class C felony if an object of the conspiracy  
4 is a Class B felony.

5           "(4) Class D felony if an object of the conspiracy  
6 is a Class C felony.

7           "~~(4)~~ (5) Class A misdemeanor if an object of the  
8 conspiracy is a Class ~~C~~ D felony.

9           "~~(5)~~ (6) Class B misdemeanor if an object of the  
10 conspiracy is a Class A misdemeanor.

11           "~~(6)~~ (7) Class C misdemeanor if an object of the  
12 conspiracy is a Class B misdemeanor.

13           "~~(7)~~ (8) Violation if an object of the conspiracy is  
14 a Class C misdemeanor.

15           "§13A-7-7.

16           "(a) A person commits the crime of burglary in the  
17 third degree if he or she knowingly enters or remains  
18 unlawfully in a ~~building~~ dwelling with intent to commit a  
19 crime therein.

20           "(b) Burglary in the third degree is a Class C  
21 felony.

22           "§13A-7-8.

23           "(a) A person commits the crime of possession of  
24 burglar's tools if he or she does both of the following:

25           "(1) Possesses any explosive, tool, instrument or  
26 other article adapted, designed or commonly used for  
27 committing or facilitating the commission of an offense

1 involving forcible entry into premises or theft by a physical  
2 taking;~~and.~~

3 "(2) Intends to use the thing possessed in the  
4 commission of an offense of the nature described in  
5 subdivision (a) (1) of this section.

6 "(b) Possession of burglar's tools is a Class ~~C~~ D  
7 felony.

8 "§13A-7-21.

9 "(a) A person commits the crime of criminal mischief  
10 in the first degree if, with intent to damage property, and  
11 having no right to do so or any reasonable ground to believe  
12 that he or she has such a right, he or she inflicts damages to  
13 property either:

14 "(1) In an amount exceeding ~~two~~ five thousand ~~five~~  
15 ~~hundred~~ dollars ~~(\$2,500); or~~ (\$5,000).

16 "(2) By means of an explosion.

17 "(b) Criminal mischief in the first degree is a  
18 Class C felony.

19 "§13A-7-22.

20 "(a) A person commits the crime of criminal mischief  
21 in the second degree if, with intent to damage property, and  
22 having no right to do so or any reasonable ground to believe  
23 that he or she has such a right, he or she inflicts damages to  
24 property in an amount which exceeds ~~five hundred dollars~~  
25 ~~(\$500)~~ one thousand dollars (\$1,000) but does not exceed ~~two~~  
26 five thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$5,000).

1           "(b) Criminal mischief in the second degree is a  
2 Class ~~A misdemeanor~~ D felony.

3           "§13A-7-23.

4           "(a) A person commits the crime of criminal mischief  
5 in the third degree if, with intent to damage property, and  
6 having no right to do so or any reasonable ground to believe  
7 that he or she has such a right, he or she inflicts damages to  
8 property in an amount not exceeding ~~five hundred dollars~~  
9 ~~(\$500)~~ one thousand dollars (\$1,000).

10           "(b) Criminal mischief in the third degree is a  
11 Class ~~B A~~ A misdemeanor.

12           "§13A-7-25.

13           "(a) A person commits the crime of criminal  
14 tampering in the first degree if, having no right to do so or  
15 any reasonable ground to believe that he or she has such a  
16 right, he or she intentionally causes substantial interruption  
17 or impairment of a service rendered to the public by a  
18 utility.

19           "(b) Criminal tampering in the first degree is a  
20 Class ~~C D~~ D felony.

21           "§13A-8-1.

22           "The following definitions are applicable in this  
23 article unless the context otherwise requires:

24           "(1) DECEPTION occurs when a person knowingly does  
25 any of the following:

1           "a. Creates or confirms another's impression which  
2 is false and which the defendant does not believe to be true; ~~or~~  
3 ~~or.~~

4           "b. Fails to correct a false impression which the  
5 defendant previously has created or confirmed; ~~or.~~

6           "c. Fails to correct a false impression when the  
7 defendant is under a duty to do so; ~~or.~~

8           "d. Prevents another from acquiring information  
9 pertinent to the disposition of the property involved; ~~or.~~

10          "e. Sells or otherwise transfers or encumbers  
11 property, failing to disclose a lien, adverse claim, or other  
12 legal impediment to the enjoyment of the property when the  
13 defendant is under a duty to do so, whether that impediment is  
14 or is not valid, or is not a matter of official record; ~~or.~~

15          "f. Promises performance which the defendant does  
16 not intend to perform or knows will not be performed. Failure  
17 to perform, standing alone, however, is not proof that the  
18 defendant did not intend to perform.

19          "The term "deception" does not, however, include  
20 falsity as to matters having no pecuniary significance, or  
21 puffing by statements unlikely to deceive ordinary persons.  
22 "Puffing" means an exaggerated commendation of wares or  
23 services.

24          "(2) To "DEPRIVE ..." means any of the following:

25          "a. To withhold property or cause it to be withheld  
26 from a person permanently or for such period or under such

1 circumstances that all or a portion of its use or benefit  
2 would be lost to him or her;~~or.~~

3 "b. To dispose of the property so as to make it  
4 unlikely that the owner would recover it;~~or.~~

5 "c. To retain the property with intent to restore it  
6 to the owner only if the owner purchases or leases it back, or  
7 pays a reward or other compensation for its return;~~or.~~

8 "d. To sell, give, pledge, or otherwise transfer any  
9 interest in the property;~~or.~~

10 "e. To subject the property to the claim of a person  
11 other than the owner.

12 "(3) FINANCIAL INSTITUTION. A bank, insurance  
13 company, credit union, safety deposit company, savings and  
14 loan association, investment trust, or other organization held  
15 out to the public as a place of deposit of funds or medium of  
16 savings or collective investment.

17 "(4) FIREARM. A weapon from which a shot is  
18 discharged by gunpowder.

19 "(5) GOVERNMENT. The United States, any state or any  
20 county, municipality, or other political unit within territory  
21 belonging to the United States, or any department, agency, or  
22 subdivision of any of the foregoing, or any corporation or  
23 other association carrying out the functions of government, or  
24 any corporation or agency formed pursuant to interstate  
25 compact or international treaty.

1 "As used in this definition "state" includes any  
2 state, territory, or possession of the United States, the  
3 District of Columbia, and the Commonwealth of Puerto Rico.

4 "(6) OBTAINS. Such term means either of the  
5 following:

6 "a. In relation to property, to bring about a  
7 transfer or purported transfer of a legally recognized  
8 interest in the property, whether to the obtainer or another  
9 or.

10 "b. In relation to labor or service, to secure  
11 performance thereof.

12 "(7) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS  
13 UNAUTHORIZED CONTROL over property includes but is not  
14 necessarily limited to the taking, carrying away, or the sale,  
15 conveyance, or transfer of title to, or interest in, or  
16 possession of, property, and includes but is not necessarily  
17 limited to conduct heretofore defined or known as common law  
18 larceny by trespassory taking, common law larceny by trick,  
19 larceny by conversion, embezzlement, extortion, or obtaining  
20 property by false pretenses.

21 "(8) OWNER. A person, other than the defendant, who  
22 has possession of or any other interest in the property  
23 involved, even though that interest or possession is unlawful,  
24 and without whose consent the defendant has no authority to  
25 exert control over the property.

26 "A secured party, as defined in Section  
27 7-9A-102(a) (72), is not an owner in relation to a defendant



1 who is a debtor, as defined in Section 7-9A-102(a)(28), in  
2 respect of property in which the secured party has a security  
3 interest, as defined in Section 7-1-201(37).

4 "(9) PROPELLED VEHICLE. Any propelled device in,  
5 upon, or by which any person or property is transported on  
6 land, water, or in the air, and such term includes motor  
7 vehicles, motorcycles, motorboats, aircraft, and any vessel  
8 propelled by machinery, whether or not that machinery is the  
9 principal source of propulsion.

10 "(10) PROPERTY. Any money, tangible or intangible  
11 personal property, property (whether real or personal) the  
12 location of which can be changed (including things growing on,  
13 affixed to, or found in land and documents, although the  
14 rights represented hereby have no physical location), contract  
15 right, chose-in-action, interest in a claim to wealth, credit,  
16 or any other article or thing of value of any kind.

17 "Commodities of a public utility nature, such as  
18 gas, electricity, steam, and water, constitute property, but  
19 the supplying of such a commodity to premises from an outside  
20 source by means of wires, pipes, conduits, or other equipment  
21 shall be deemed a rendition of a service rather than a sale or  
22 delivery of property.

23 "(11) RECEIVING. Such term includes, but is not  
24 limited to, acquiring possession, control, or title and taking  
25 a security interest in the property.

26 "(12) STOLEN. Obtained by theft, theft by  
27 appropriating lost property, robbery, or extortion.

1           "(13) THREAT. A menace, however communicated, to do  
2 any of the following:

3           "a. Cause physical harm to the person threatened or  
4 to any other person;~~or.~~

5           "b. Cause damage to property;~~or.~~

6           "c. Subject the person threatened or any other  
7 person to physical confinement or restraint;~~or.~~

8           "d. Engage in other conduct constituting a crime;  
9 ~~or.~~

10          "e. Accuse any person of a crime or cause criminal  
11 charges to be instituted against any person;~~or.~~

12          "f. Expose a secret or publicize an asserted fact,  
13 whether true or false, tending to subject any person to  
14 hatred, contempt, or ridicule;~~or.~~

15          "g. Reveal any information sought to be concealed by  
16 the person threatened;~~or.~~

17          "h. Testify or provide information or withhold  
18 testimony or information with respect to another's legal claim  
19 or defense;~~or.~~

20          "i. Take action as an official against anyone or  
21 anything, or withhold official action, or cause such action or  
22 withholding;~~or.~~

23          "j. Bring about or continue a strike, boycott, or  
24 other similar collective action to obtain property which is  
25 not demanded or received for the benefit of the group which  
26 the actor purports to represent;~~or.~~

1            "k. Do any other act which would not in itself  
2 substantially benefit the actor but which is calculated to  
3 harm substantially another person with respect to his or her  
4 health, safety, business, calling, career, financial  
5 condition, reputation, or personal relationships.

6            "(14) VALUE. The market value of the property at the  
7 time and place of the criminal act.

8            "Whether or not they have been issued or delivered,  
9 certain written instruments, not including those having a  
10 readily ascertainable market value such as some public and  
11 corporate bonds and securities shall be evaluated as follows:

12            "a. The value of an instrument constituting an  
13 evidence of debt, such as a check, draft, or promissory note,  
14 shall be deemed the amount due or collectible thereon or  
15 thereby, that figure ordinarily being the face amount of the  
16 indebtedness less any portion thereof which has been  
17 satisfied.

18            "b. The value of any other instrument that creates,  
19 releases, discharges, or otherwise affects any valuable legal  
20 right, privilege, or obligation shall be deemed the greatest  
21 amount of economic loss which the owner of the instrument  
22 might reasonably suffer by virtue of the loss of the  
23 instrument.

24            "When the value of property cannot be ascertained  
25 pursuant to the standards set forth above, its value shall be  
26 deemed to be an amount not exceeding one thousand five hundred  
27 dollars ~~(\$500)~~ (\$1,500).

1           "Amounts involved in thefts committed pursuant to  
2 one scheme or course of conduct, whether from the same person  
3 or several persons, may be aggregated in determining the grade  
4 of the offense; provided, that only one conviction may be had  
5 and only one sentence enforced for all thefts included in such  
6 aggregate.

7           "§13A-8-3.

8           "(a) The theft of property which exceeds ~~two~~ ten  
9 thousand ~~five hundred~~ dollars (~~\$2,500~~) (\$10,000) in value, or  
10 property of any value taken from the person of another,  
11 constitutes theft of property in the first degree.

12           "(b) The theft of a motor vehicle, regardless of its  
13 value, constitutes theft of property in the first degree.

14           "(c) (1) The theft of property which involves all of  
15 the following constitutes theft of property in the first  
16 degree:

17           "a. The theft is a common plan or scheme by one or  
18 more persons; ~~and.~~

19           "b. The object of the common plan or scheme is to  
20 sell or transfer the property to another person or business  
21 that buys the property with knowledge or reasonable belief  
22 that the property is stolen; ~~and.~~

23           "c. The aggregate value of the property stolen is at  
24 least ~~one~~ ten thousand dollars (~~\$1,000~~) (\$10,000) within a  
25 180-day period.

26           "(2) If the offense under this subsection involves  
27 two or more counties, prosecution may be commenced in any one

1 of those counties in which the offense occurred or in which  
2 the property was disposed.

3 "(d) Theft of property in the first degree is a  
4 Class B felony.

5 "§13A-8-4.

6 "(a) The theft of property which exceeds ~~five~~  
7 ~~hundred~~ five thousand dollars ~~(\$500)~~ (\$5,000) in value but  
8 does not exceed ~~two~~ ten thousand ~~five hundred~~ dollars ~~(\$2,500)~~  
9 (\$10,000) in value, and which is not taken from the person of  
10 another, constitutes theft of property in the second degree.

11 "(b) Theft of property in the second degree is a  
12 Class C felony.

13 "(c) The theft of a credit card or a debit card,  
14 regardless of its value, constitutes theft of property in the  
15 second degree.

16 "(d) The theft of a firearm, rifle, or shotgun,  
17 regardless of its value, constitutes theft of property in the  
18 second degree.

19 "(e) The theft of any substance controlled by  
20 Chapter 2 of Title 20 or any amendments thereto, regardless of  
21 value, constitutes theft of property in the second degree.

22 "(f) The theft of any livestock which includes  
23 cattle, swine, equine or equidae, or sheep, regardless of  
24 their value, constitutes theft of property in the second  
25 degree.

26 "~~(g) Notwithstanding subsection (a), the theft of~~  
27 ~~property which exceeds two hundred fifty dollars (\$250) in~~

1 value but does not exceed two thousand five hundred dollars  
2 ~~(\$2,500)~~ in value, and which is not taken from the person of  
3 another, where the defendant has previously been convicted of  
4 a theft of property in the first or second degree or receiving  
5 stolen property in the first or second degree, constitutes  
6 theft of property in the second degree.

7 "§13A-8-5.

8 "(a) The theft of property which ~~does not exceed~~  
9 ~~five hundred dollars (\$500)~~ exceeds one thousand dollars  
10 (\$1,000) in value but does not exceed five thousand dollars  
11 (\$5,000) in value, and which is not taken from the person of  
12 another constitutes theft of property in the third degree.

13 "(b) Theft of property in the third degree is a  
14 Class ~~A misdemeanor~~ D felony.

15 "§13A-8-7.

16 "(a) The theft of lost property which exceeds ~~two~~  
17 ~~ten thousand five hundred dollars (\$2,500)~~ (\$10,000) in value  
18 constitutes theft of lost property in the first degree.

19 "(b) Theft of lost property in the first degree is a  
20 Class B felony.

21 "§13A-8-8.

22 "(a) The theft of lost property which exceeds ~~five~~  
23 ~~hundred dollars (\$500)~~ five thousand dollars (\$5,000) in value  
24 but does not exceed ~~two thousand five hundred dollars (\$2,500)~~  
25 ten thousand dollars (\$10,000) in value constitutes theft of  
26 lost property in the second degree.

1           "(b) Theft of lost property in the second degree is  
2 a Class C felony.

3           "§13A-8-9.

4           "(a) The theft of lost property which ~~does not~~  
5 ~~exceed five hundred dollars (\$500)~~ exceeds one thousand  
6 dollars (\$1,000) in value but does not exceed five thousand  
7 dollars (\$5,000) in value constitutes theft of lost property  
8 in the third degree.

9           "(b) Theft of lost property in the third degree is a  
10 Class ~~A misdemeanor~~ D felony.

11          "§13A-8-10.1.

12          "(a) The theft of services which exceeds ~~two~~  
13 ~~thousand five hundred dollars (\$2,500)~~ ten thousand dollars  
14 (\$10,000) in value constitutes theft of services in the first  
15 degree.

16          "(b) Theft of services in the first degree is a  
17 Class B felony.

18          "§13A-8-10.2.

19          "(a) The theft of services which exceeds ~~five~~  
20 ~~hundred dollars (\$500)~~ five thousand dollars (\$5,000) in value  
21 but does not exceed ~~two thousand five hundred dollars (\$2,500)~~  
22 ten thousand dollars (\$10,000) in value constitutes theft of  
23 services in the second degree.

24          "(b) Theft of services in the second degree is a  
25 Class C felony.

26          "§13A-8-10.3.

1           "(a) The theft of services which ~~does not exceed~~  
2 ~~five hundred dollars (\$500)~~ exceeds one thousand dollars  
3 (\$1,000) in value but does not exceed five thousand dollars  
4 (\$5,000) in value constitutes theft of services in the third  
5 degree.

6           "(b) Theft of services in the third degree is a  
7 Class ~~A misdemeanor~~ D felony.

8           "§13A-8-11.

9           "(a) A person commits the crime of unauthorized use  
10 of a vehicle in any of the following instances if:

11           "(1) Knowing that he or she does not have the  
12 consent of the owner, he or she takes, operates, exercises  
13 control over or otherwise uses a propelled vehicle; ~~or.~~

14           "(2) Having custody of a propelled vehicle pursuant  
15 to an agreement between himself or herself or another and the  
16 owner thereof whereby the actor or another is to perform for  
17 compensation a specific service for the owner involving the  
18 maintenance, repair, or use of the vehicle, he or she  
19 intentionally uses or operates it, without the consent of the  
20 owner, for his or her own purpose in a manner constituting a  
21 gross deviation from the agreed purpose; ~~or.~~

22           "(3) Having custody of a propelled vehicle pursuant  
23 to an agreement with the owner thereof whereby it is to be  
24 returned to the owner at a specified time, he or she knowingly  
25 retains or withholds possession thereof, without the consent  
26 of the owner, for so lengthy a period beyond the specified



1 time as to render the retention or possession a gross  
2 deviation from the agreement.

3 "~~(4)~~ (b) Unauthorized use of a vehicle is a Class A  
4 misdemeanor, except that if a person by force or threat of  
5 force takes, operates, usurps, or exercises control over a  
6 propelled vehicle with an operator or one or more passengers  
7 aboard ~~he~~ the person is guilty of a Class B felony.

8 "~~(b)~~ (c) A person commits the crime of unlawful  
9 breaking and entering a vehicle if, without the consent of the  
10 owner, ~~he~~ the person breaks into and enters a vehicle or any  
11 part of a vehicle with the intent to commit any felony or  
12 theft. For the purposes of this section, "enters" means to  
13 intrude either:

14 "(1) Any part of the body; ~~or.~~

15 "(2) Any physical object connected with the body.

16 "~~(3)~~ (d) Unlawful breaking and entering a vehicle is  
17 a Class ~~C~~ D felony.

18 "§13A-8-17.

19 "(a) Receiving stolen property which exceeds ~~two~~  
20 ~~thousand five hundred dollars (\$2,500)~~ ten thousand dollars  
21 (\$10,000) in value constitutes receiving stolen property in  
22 the first degree.

23 "(b) Receiving stolen property in the first degree  
24 is a Class B felony.

25 "§13A-8-18.

1           "(a) Receiving stolen property in either of the  
2 following instances constitutes receiving stolen property in  
3 the second degree:

4           "(1) Which exceeds ~~five hundred dollars (\$500)~~ five  
5 thousand dollars (\$5,000) in value but does not exceed ~~two~~  
6 ~~thousand five hundred dollars (\$2,500)~~ ten thousand dollars  
7 (\$10,000) in value; ~~or.~~

8           "(2) Of any value under the circumstances described  
9 in subdivision (b) (3) of Section 13A-8-16; ~~constitutes~~  
10 ~~receiving stolen property in the second degree; or.~~

11           "~~(3) Notwithstanding subdivision (1) of subsection~~  
12 ~~(a), receiving stolen property which exceeds two hundred fifty~~  
13 ~~dollars (\$250) in value but does not exceed two thousand five~~  
14 ~~hundred dollars (\$2,500) in value where the defendant has~~  
15 ~~previously been convicted of theft of property in the first or~~  
16 ~~second degree or receiving stolen property in the first or~~  
17 ~~second degree, constitutes receiving stolen property in the~~  
18 ~~second degree.~~

19           "(b) Receiving stolen property in the second degree  
20 is a Class C felony.

21           "§13A-8-19.

22           "(a) Receiving stolen property which ~~does not exceed~~  
23 ~~five hundred dollars (\$500)~~ exceeds one thousand dollars  
24 (\$1,000) in value but does not exceed five thousand dollars  
25 (\$5,000) in value constitutes receiving stolen property in the  
26 third degree.

1           "(b) Receiving stolen property in the third degree  
2 is a Class ~~A misdemeanor~~ D felony.

3           "§13A-8-23.

4           "(a) The following terms shall have the meanings  
5 ascribed thereto unless the context clearly indicates  
6 otherwise:

7           "(1) OWNER. Includes any part owner, joint owner,  
8 tenant-in-common, joint tenant, or tenant by the entirety of  
9 the whole or part of any building.

10          "(2) PERSON. Includes a corporation, firm, company,  
11 or association.

12          "(3) TENANT or OCCUPANT. Shall include any person  
13 who occupies the whole or a part of any building whether alone  
14 or with others and shall include the owner.

15          "(4) UTILITY. Any public or private utility  
16 authorized to provide electricity, natural gas, or water or  
17 any combination thereof for sale to consumers in any  
18 particular service area.

19          "(5) UTILITY SERVICES. The products, commodities,  
20 and services provided by a utility to its customers.

21          "(b) It shall be unlawful for a tenant, occupant, or  
22 any other person to commit any of the following acts which  
23 could, or in fact does, make gas, electricity, or water  
24 unlawfully available to such tenant, occupant, or person, or  
25 to another:

26          "(1) To connect any tube, pipe, wire, or other  
27 instrument with any meter, device, or other instrument used

1 for conducting gas, electricity, or water in such a manner as  
2 to permit the use of said gas, electricity, or water without  
3 the same passing through a meter or other instrument recording  
4 the usage for billing.

5 "(2) To alter, injure, turn on, or prevent the  
6 action of a meter, valve, stopcock, or other instrument used  
7 for measuring quantities of gas, electricity, or water.

8 "(3) To break, deface, or cause to be broken or  
9 defaced any seal, locking device, or other parts that make up  
10 a metering device for recording usage of gas, electricity, or  
11 water or a security system for the recording device.

12 "(4) To remove a metering device for measuring  
13 quantities of gas, electricity, or water.

14 "(5) To transfer from one location to another a  
15 metering device for measuring utilities of gas, electricity,  
16 or water.

17 "(6) To use a metering device belonging to the  
18 utility that has not been assigned to the location and  
19 installed by the utility.

20 "(7) To adjust the indicated consumption, to jam the  
21 measuring device, to bypass the meter or measuring device with  
22 a jumper so that it does not indicate use or registers  
23 incorrectly, or to otherwise obtain quantities of gas,  
24 electricity, or water from the utility without same passing  
25 through a metering device for measuring quantities of  
26 consumption for billing.

1           "(8) To fabricate or to use a device to pick or  
2 otherwise tamper with the locks used to deter current  
3 diversion, meter tampering, and meter thefts.

4           "(9) To otherwise take any action resulting in the  
5 diversion or unauthorized use of gas, electricity, or water.

6           "(c) Any property on which it is found to have  
7 electric, gas, or water utilities tampered with in violation  
8 of this section and capable of receiving gas, electricity, or  
9 water as a result of the use of any method of diversion  
10 prohibited herein shall be prima facie evidence and create  
11 against the tenant, occupant, or other person a presumption of  
12 intent to tamper or divert in violation of this section.

13           "(d) Any occupant, tenant, or other person who  
14 violates this section, and any person who aids and abets in  
15 such prohibited acts, who shall be deemed a principal to such  
16 acts, shall be guilty of a Class C felony if the theft amount  
17 exceeds five ~~hundred thousand~~ thousand dollars ~~(\$500)~~ (\$5,000) in  
18 value, a Class D felony if the theft amount exceeds one  
19 thousand dollars (\$1,000) in value but does not exceed five  
20 thousand dollars (\$5,000) in value, and a Class A misdemeanor  
21 if the theft amount is less than or equal to ~~five hundred~~  
22 ~~dollars (\$500)~~ one thousand dollars (\$1,000) in value, as  
23 provided by the state criminal code, and upon conviction, be  
24 punished as prescribed by law.

25           "(e) The provisions of this section are supplemental  
26 to the provisions of the offense of theft of services as

1 provided in Section 13A-8-10, and shall in no way repeal or  
2 modify Section 13A-8-10.

3 "§13A-8-144.

4 "The crime of theft by fraudulent leasing or rental  
5 of property shall be a Class A misdemeanor if the subject  
6 matter of the lease or rental agreement had a value of ~~five~~  
7 ~~hundred dollars (\$500)~~ one thousand dollars (\$1,000) or less;  
8 if the value of such property was in excess of ~~five hundred~~  
9 ~~dollars (\$500)~~ one thousand dollars (\$1,000), the crime shall  
10 be a Class C D felony.

11 "§13A-8-194.

12 "(a) A person commits the crime of obstructing  
13 justice using a false identity if he or she uses  
14 identification documents or identifying information of another  
15 person or a fictitious person to avoid summons, arrest,  
16 prosecution, or to impede a criminal investigation.

17 "(b) Obstructing justice using a false identity is a  
18 Class C D felony.

19 "§13A-9-2.

20 "(a) A person commits the crime of forgery in the  
21 first degree if, with intent to defraud, he or she falsely  
22 makes, completes, or alters a written instrument which is or  
23 purports to be, or which is calculated to become or to  
24 represent if completed either:

25 "(1) Part of an issue or series of stamps,  
26 securities or other valuable instruments issued by a  
27 government or governmental agency; ~~or.~~

1           "(2) Part of an issue or series of stock, bonds, or  
2 other instruments representing interests in or claims against  
3 a business enterprise or its property.

4           "(b) Forgery in the first degree is a Class ~~B~~ C  
5 felony.

6           "§13A-9-3.

7           "(a) A person commits the crime of forgery in the  
8 second degree if, with intent to defraud, he or she falsely  
9 makes, completes, or alters a written instrument which is or  
10 purports to be, or which is calculated to become or to  
11 represent if completed either:

12           "(1) A deed, will, codicil, contract, assignment or  
13 a check, draft, note or other commercial instrument which does  
14 or may evidence, create, transfer, terminate, or otherwise  
15 affect a legal right, interest, obligation, or status; ~~or.~~

16           "(2) A public record, or an instrument filed or  
17 required or authorized by law to be filed in a public office  
18 or with a public employee; ~~or.~~

19           "(3) A written instrument officially issued or  
20 created by a public office, public employees or government  
21 agency.

22           "(b) Forgery in the second degree is a Class ~~C~~ D  
23 felony.

24           "§13A-9-5.

25           "(a) A person commits the crime of criminal  
26 possession of a forged instrument in the first degree if he or  
27 she possesses or utters any forged instrument of a kind

1 specified in Section 13A-9-2 with knowledge that it is forged  
2 and with intent to defraud.

3 "(b) Criminal possession of a forged instrument in  
4 the first degree is a Class ~~B~~ C felony.

5 "§13A-9-6.

6 "(a) A person commits the crime of criminal  
7 possession of a forged instrument in the second degree if he  
8 or she possesses or utters any forged instrument of a kind  
9 specified in Section 13A-9-3 with knowledge that it is forged  
10 and with intent to defraud.

11 "(b) Criminal possession of a forged instrument in  
12 the second degree is a Class ~~C~~ D felony.

13 "§13A-9-14.

14 "(a) A person commits the crime of illegal  
15 possession of a credit or debit card if, knowing that he or  
16 she does not have the consent of the owner, he or she takes,  
17 exercises control over, or otherwise uses the card.

18 "(b) A person commits the crime of fraudulent use of  
19 a credit card or debit card if he or she uses, attempts to  
20 use, or allows to be used, a credit card or debit card for the  
21 purpose of obtaining property, services, or anything else of  
22 value with knowledge that either:

23 "(1) The card is stolen;~~or.~~

24 "(2) The card has been revoked or cancelled;~~or.~~

25 "(3) For any other reason the use of the card is  
26 unauthorized by either the issuer or the person to whom the  
27 credit card or debit card is issued. The mere use by the



1 original issuee of a credit card or debit card which has  
2 expired is not within the provisions of subdivision (b) (3) of  
3 this section.

4 "(c) "Credit card" means any instrument or device,  
5 including a card to obtain telecommunication services, whether  
6 known as a credit card, credit plate, bank service card,  
7 banking card, check guarantee card, welfare card, a card used  
8 to facilitate the transfer of government benefits such as an  
9 electronic benefit transfer card (EBT card) or similar card,  
10 or a debit card, or by any other name, including an account  
11 number, issued with or without fee by an issuer for the use of  
12 the cardholder in obtaining money, goods, services, or  
13 anything else of value, including telecommunication services,  
14 on credit or for use in an automated banking device to obtain  
15 any of the services offered through the device.

16 "(d) "Debit card" means any instrument or writing or  
17 other evidence known by any name issued with or without fee by  
18 an issuer for the use of a depositor in obtaining money,  
19 goods, services, or anything else of value, payment of which  
20 is made against funds previously deposited in an account with  
21 the issuer.

22 "(e) Illegal possession of or fraudulent use of a  
23 credit card or debit card is a Class C D felony.

24 "§13A-10-33.

25 "(a) A person commits the offense of escape in the  
26 third degree if he or she escapes or attempts to escape from  
27 custody.

1           "(b) Escape in the third degree is a Class E D  
2 felony.

3           "§13A-10-39.

4           "(a) The person commits the crime of bail jumping in  
5 the first degree if, having been lawfully released from  
6 custody, with or without bail, upon condition that he or she  
7 will subsequently appear at a specified time and place in  
8 connection with a charge of his or her having committed murder  
9 or any Class A or B felony, he or she fails to appear at the  
10 time and place.

11           "(b) It is a defense to prosecution under this  
12 section that the defendant's failure to appear was  
13 unintentional or was unavoidable and due to circumstances  
14 beyond his or her control. The burden of injecting the defense  
15 of an unintentional failure to appear, or unavoidability and  
16 circumstances beyond his or her control, is on the defendant.

17           "(c) Bail jumping in the first degree is a Class E D  
18 felony.

19           "§13A-10-40.

20           "(a) A person commits the crime of bail jumping in  
21 the second degree if, having been lawfully released from  
22 custody, with or without bail, upon condition that he or she  
23 will subsequently appear at a specified time and place in  
24 connection with a charge of his or her having committed any  
25 misdemeanor or Class C or D felony, he or she fails to appear  
26 at that time and place.

1           "(b) It is a defense to prosecution under this  
2 section that the defendant's failure to appear was  
3 unintentional or was unavoidable and due to circumstances  
4 beyond his or her control. The burden of injecting the defense  
5 of an unintentional failure to appear, or unavoidability and  
6 circumstances beyond his or her control, is on the defendant.

7           "(c) This section does not apply to a person  
8 released from custody on condition that he or she will appear  
9 in connection with a charge of having committed a misdemeanor  
10 in violation of Title 32 of this Code.

11           "(d) Bail jumping in the second degree is a Class A  
12 misdemeanor.

13           "§13A-10-43.

14           "(a) A person commits the crime of hindering  
15 prosecution in the first degree if with the intent to hinder  
16 the apprehension, prosecution, conviction, or punishment of  
17 another for conduct constituting a murder or a Class A or B  
18 felony, he or she renders criminal assistance to such person.

19           "(b) Hindering prosecution in the first degree is a  
20 Class ~~C~~ A misdemeanor.

21           "§13A-10-44.

22           "(a) A person commits the crime of hindering  
23 prosecution in the second degree if with the intent to hinder  
24 the apprehension, prosecution, conviction or punishment of  
25 another for conduct constituting a Class C or D felony or a  
26 Class A misdemeanor, he or she renders criminal assistance to  
27 such person.

1           "(b) Hindering prosecution in the second degree is a  
2 Class ~~A~~ B misdemeanor."

3           Section 4. (a) A person commits the crime of  
4 burglary in the fourth degree if he or she knowingly enters or  
5 remains unlawfully in a building with intent to commit a crime  
6 therein.

7           (b) Burglary in the fourth degree is a Class D  
8 felony.

9           Section 5. (a) The theft of property which does not  
10 exceed one thousand dollars (\$1,000) in value and which is not  
11 taken from the person of another constitutes theft of property  
12 in the fourth degree.

13           (b) Theft of property in the fourth degree is a  
14 Class A misdemeanor.

15           Section 6. (a) The theft of lost property which does  
16 not exceed one thousand dollars (\$1,000) in value constitutes  
17 theft of lost property in the fourth degree.

18           (b) Theft of lost property in the fourth degree is a  
19 Class A misdemeanor.

20           Section 7. (a) The theft of services which does not  
21 exceed one thousand dollars (\$1,000) is theft of services in  
22 the fourth degree.

23           (b) Theft of services in the fourth degree is a  
24 Class A misdemeanor.

25           Section 8. (a) Receiving stolen property which does  
26 not exceed one thousand dollars (\$1,000) in value constitutes  
27 receiving stolen property in the fourth degree.

1                   (b) Receiving stolen property in the fourth degree  
2 is a Class A misdemeanor.

3                   Section 9. This act shall apply to criminal offenses  
4 committed after the effective date of this act.

5                   Section 10. All laws or parts of laws which conflict  
6 with this act are repealed.

7                   Section 11. Although this bill would have as its  
8 purpose or effect the requirement of a new or increased  
9 expenditure of local funds, the bill is excluded from further  
10 requirements and application under Amendment 621, now  
11 appearing as Section 111.05 of the Official Recompilation of  
12 the Constitution of Alabama of 1901, as amended, because the  
13 bill defines a new crime or amends the definition of an  
14 existing crime.

15                   Section 12. This act shall become effective on the  
16 first day of the third month following its passage and  
17 approval by the Governor, or its otherwise becoming law.