

Representative Lawanna Shurtliff proposes the following substitute bill:

THEFT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lawanna Shurtliff

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enhances the penalty for a person convicted of theft more than three times.

Highlighted Provisions:

This bill:

► provides that the fourth conviction for theft is a third degree felony if the value of the property is between \$100 and \$1,500.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-412, as last amended by Laws of Utah 2018, Chapter 265

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **76-6-412** is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:



- 26 (a) as a second degree felony if the:
- 27 (i) value of the property or services is or exceeds \$5,000;
- 28 (ii) property stolen is a firearm or an operable motor vehicle; or
- 29 (iii) property is stolen from the person of another;
- 30 (b) as a third degree felony if:
- 31 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
- 32 (ii) the value of the property or services is or exceeds \$500 and the actor has been twice
- 33 before convicted of any of the following offenses, if each prior offense was committed within
- 34 10 years of the date of the current conviction or the date of the offense upon which the current
- 35 conviction is based and at least one of those convictions is for a class A misdemeanor:
- 36 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 37 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
- 38 (C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);
- 39 (iii) in a case not amounting to a second degree felony, the property taken is a stallion,
- 40 mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine,
- 41 poultry, or a fur-bearing animal raised for commercial purposes; ~~or~~
- 42 (iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;
- 43 (B) the theft occurs on a property where the offender has committed any theft within
- 44 the past five years; and
- 45 (C) the offender has received written notice from the merchant prohibiting the offender
- 46 from entering the property pursuant to ~~Subsection~~ Section 78B-3-108~~(4)~~;
- 47 (v) subject to Subsection (3), the actor has been convicted four times of any of the
- 48 offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was
- 49 committed within 10 years of the date of the current conviction or the date of the offense upon
- 50 which the current conviction is based and the value of the property stolen is or exceeds \$100
- 51 but is less than \$1,500; or
- 52 ~~(v)~~ (vi) the actor has been previously convicted of a felony violation of any of the
- 53 offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);
- 54 (c) as a class A misdemeanor if:
- 55 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 56 (ii) (A) the value of property or services is less than \$500;

57 (B) the theft occurs on a property where the offender has committed any theft within
58 the past five years; and

59 (C) the offender has received written notice from the merchant prohibiting the offender
60 from entering the property pursuant to ~~[Subsection]~~ Section 78B-3-108~~(4)~~; or

61 (iii) the actor has been twice before convicted of any of the offenses listed in
62 Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10
63 years of the date of the current conviction or the date of the offense upon which the current
64 conviction is based; or

65 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
66 the theft is not an offense under Subsection (1)(c).

67 (2) Any individual who violates Subsection 76-6-408(1) or ~~[Subsection]~~ Section
68 76-6-413~~(1)~~, or commits theft of property described in Subsection ~~[76-6-412]~~(1)(b)(iii), is
69 civilly liable for three times the amount of actual damages, if any, sustained by the plaintiff,
70 and for costs of suit and reasonable attorney fees.

71 (3) For a defendant convicted under Subsection (1)(b)(v), the court shall consider
72 entering an order lowering the offense by one degree, in accordance with Section 76-3-402(2),
73 if the defendant:

74 (a) files a motion in accordance with Section 76-3-402(2);

75 (b) successfully completes the defendant's court ordered probation;

76 (c) pays full restitution as ordered by the court;

77 (d) completes all treatment as ordered by the court; and

78 (e) does not have a conviction for any felony offense on or before the date the court
79 would otherwise enter the order.