

FILED MAR 03 1992

SENATE FILE 2260
BY COMMITTEE ON JUDICIARY

approved by SSB
(SUCCESSOR TO SSB 2053)

Passed Senate, Date 3/17/92 (p. 820) Passed House, Date 3/31/92 (p. 937)
Vote: Ayes 48 Nays 0 Vote: Ayes 93 Nays 0
Approved April 14, 1992 (p. 1388)

A BILL FOR

1 An Act relating to the property offenses of theft, fraudulent
2 practices, false use of a credit card, criminal mischief,
3 computer damage, and computer theft, and changing the dollar
4 values of the property involved in order to commit various
5 degrees of these offenses.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2260

1 Section 1. Section 714.2, Code 1991, is amended to read as
2 follows:

3 714.2 DEGREES OF THEFT.

4 1. The theft of property exceeding five ten thousand
5 dollars in value, or the theft of property from the person of
6 another, or from a building which has been destroyed or left
7 unoccupied because of physical disaster, riot, bombing, or the
8 proximity of battle, or the theft of property which has been
9 removed from a building because of a physical disaster, riot,
10 bombing, or the proximity of battle, is theft in the first
11 degree. Theft in the first degree is a class "C" felony.

12 2. The theft of property exceeding five-hundred one
13 thousand dollars but not exceeding five ten thousand dollars
14 in value or theft of a motor vehicle as defined in chapter 321
15 not exceeding five ten thousand dollars in value, is theft in
16 the second degree. Theft in the second degree is a class "D"
17 felony. However, for purposes of this subsection, "motor
18 vehicle" does not include a motorized bicycle as defined in
19 section 321.1, subsection 3, paragraph "b".

20 3. The theft of property exceeding one five hundred
21 dollars but not exceeding five-hundred one thousand dollars in
22 value, or the theft of any property not exceeding one five
23 hundred dollars in value by one who has before been twice
24 convicted of theft, is theft in the third degree. Theft in
25 the third degree is an aggravated misdemeanor.

26 4. The theft of property exceeding fifty one hundred
27 dollars in value but not exceeding one five hundred dollars in
28 value is theft in the fourth degree. Theft in the fourth
29 degree is a serious misdemeanor.

30 5. The theft of property not exceeding fifty one hundred
31 dollars in value is theft in the fifth degree. Theft in the
32 fifth degree is a simple misdemeanor.

33 Sec. 2. Section 714.9, Code 1991, is amended to read as
34 follows:

35 714.9 FRAUDULENT PRACTICE IN THE FIRST DEGREE.

1 Fraudulent practice in the first degree is a fraudulent
2 practice where the amount of money or value of property
3 involved exceeds five ten thousand dollars.

4 Fraudulent practice in the first degree is a class "C"
5 felony.

6 Sec. 3. Section 714.10, Code 1991, is amended to read as
7 follows:

8 714.10 FRAUDULENT PRACTICE IN THE SECOND DEGREE.

9 Fraudulent practice in the second degree is the following:

10 1. A fraudulent practice where the amount of money or
11 value of property or services involved exceeds five-hundred
12 one thousand dollars but does not exceed five ten thousand
13 dollars.

14 2. A fraudulent practice where the amount of money or
15 value of property or services involved does not exceed five
16 hundred one thousand dollars by one who has been convicted of
17 a fraudulent practice twice before.

18 Fraudulent practice in the second degree is a class "D"
19 felony.

20 Sec. 4. Section 714.11, subsection 1, Code 1991, is
21 amended to read as follows:

22 1. A fraudulent practice where the amount of money or
23 value of property or service involved exceeds one five hundred
24 dollars but does not exceed five-hundred one thousand dollars.

25 Sec. 5. Section 714.12, Code 1991, is amended to read as
26 follows:

27 714.12 FRAUDULENT PRACTICE IN THE FOURTH DEGREE.

28 Fraudulent practice in the fourth degree is a fraudulent
29 practice where the amount of money or value of property or
30 services involved exceeds fifty one hundred dollars but does
31 not exceed one five hundred dollars.

32 Fraudulent practice in the fourth degree is a serious
33 misdemeanor.

34 Sec. 6. Section 714.13, Code 1991, is amended to read as
35 follows:

1 714.13 FRAUDULENT PRACTICE IN THE FIFTH DEGREE.

2 Fraudulent practice in the fifth degree is a fraudulent
3 practice where the amount of money or value of property or
4 services involved does not exceed fifty one hundred dollars.

5 Fraudulent practice in the fifth degree is a simple
6 misdemeanor.

7 Sec. 7. Section 715A.6, subsection 2, Code 1991, is
8 amended to read as follows:

9 2. An offense under this section is a class "D" felony if
10 the value of the property or services secured or sought to be
11 secured by means of the credit card is greater than five
12 hundred one thousand dollars, otherwise the offense is an
13 aggravated misdemeanor.

14 Sec. 8. Section 716.3, Code 1991, is amended to read as
15 follows:

16 716.3 CRIMINAL MISCHIEF IN THE FIRST DEGREE.

17 Criminal mischief is criminal mischief in the first degree
18 if the cost of replacing, repairing, or restoring the property
19 so damaged, defaced, altered, or destroyed is more than five
20 ten thousand dollars, or if such acts are intended to or do in
21 fact cause a substantial interruption or impairment of service
22 rendered to the public by a gas, electric, steam or waterworks
23 corporation, telephone or telegraph corporation, common
24 carrier, or a public utility operated by a municipality.
25 Criminal mischief in the first degree is a class "C" felony.

26 Sec. 9. Section 716.4, Code 1991, is amended to read as
27 follows:

28 716.4 CRIMINAL MISCHIEF IN THE SECOND DEGREE.

29 Criminal mischief is criminal mischief in the second degree
30 if the cost of replacing, repairing, or restoring the property
31 so damaged, defaced, altered, or destroyed exceeds five
32 hundred one thousand dollars but does not exceed five ten
33 thousand dollars. Criminal mischief in the second degree is a
34 class "D" felony.

35 Sec. 10. Section 716.5, unnumbered paragraph 1, Code 1991,

1 is amended to read as follows:

2 Criminal mischief is criminal mischief in the third degree
3 if the cost of replacing, repairing, or restoring the property
4 so damaged, defaced, altered, or destroyed exceeds two five
5 hundred dollars, but does not exceed five-hundred one thousand
6 dollars, or if the property is a deed, will, commercial paper
7 or any civil or criminal process or other instrument having
8 legal effect, or if the act consists of rendering
9 substantially less effective than before any light, signal,
10 obstruction, barricade, or guard which has been placed or
11 erected for the purpose of enclosing any unsafe or dangerous
12 place or of alerting persons to an unsafe or dangerous
13 condition. Criminal mischief in the third degree is an
14 aggravated misdemeanor.

15 Sec. 11. Section 716.6, Code 1991, is amended to read as
16 follows:

17 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

18 Criminal mischief is criminal mischief in the fourth degree
19 if the cost of replacing, repairing, or restoring the property
20 so damaged, defaced, altered, or destroyed exceeds one hundred
21 dollars, but does not exceed two five hundred dollars.

22 Criminal mischief in the fourth degree is a serious
23 misdemeanor. All criminal mischief which is not criminal
24 mischief in the first degree, second degree, third degree, or
25 fourth degree is criminal mischief in the fifth degree.
26 Criminal mischief in the fifth degree is a simple misdemeanor.

27 Sec. 12. Section 716A.4, Code 1991, is amended to read as
28 follows:

29 716A.4 COMPUTER DAMAGE IN THE FIRST DEGREE.

30 Computer damage is computer damage in the first degree when
31 the damage results in a loss of property or services of more
32 than five ten thousand dollars. Computer damage in the first
33 degree is a class "C" felony.

34 Sec. 13. Section 716A.5, Code 1991, is amended to read as
35 follows:

1 716A.5 COMPUTER DAMAGE IN THE SECOND DEGREE.

2 Computer damage is computer damage in the second degree
3 when the damage results in a loss of property or services of
4 more than five-hundred one thousand dollars but not more than
5 five ten thousand dollars. Computer damage in the second
6 degree is a class "D" felony.

7 Sec. 14. Section 716A.6, Code 1991, is amended to read as
8 follows:

9 716A.6 COMPUTER DAMAGE IN THE THIRD DEGREE.

10 Computer damage is computer damage in the third degree when
11 the damage results in a loss of property or services of more
12 than one five hundred dollars but not more than five-hundred
13 one thousand dollars. Computer damage in the third degree is
14 an aggravated misdemeanor.

15 Sec. 15. Section 716A.7, Code 1991, is amended to read as
16 follows:

17 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

18 Computer damage is computer damage in the fourth degree
19 when the damage results in a loss of property or services of
20 more than fifty one hundred dollars but not more than one five
21 hundred dollars. Computer damage in the fourth degree is a
22 serious misdemeanor.

23 Sec. 16. Section 716A.8, Code 1991, is amended to read as
24 follows:

25 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

26 Computer damage is computer damage in the fifth degree when
27 the damage results in a loss of property or services of not
28 more than fifty one hundred dollars. Computer damage in the
29 fifth degree is a simple misdemeanor.

30 Sec. 17. Section 716A.10, Code 1991, is amended to read as
31 follows:

32 716A.10 COMPUTER THEFT IN THE FIRST DEGREE.

33 Computer theft is computer theft in the first degree when
34 the theft involves or results in a loss of services or
35 property of more than five ten thousand dollars. Computer

1 theft in the first degree is a class "C" felony.

2 Sec. 18. Section 716A.11, Code 1991, is amended to read as
3 follows:

4 716A.11 COMPUTER THEFT IN THE SECOND DEGREE.

5 Computer theft is computer theft in the second degree when
6 the theft involves or results in a loss of services or
7 property of more than five-hundred one thousand dollars but
8 not more than five ten thousand dollars. Computer theft in
9 the second degree is a class "D" felony.

10 Sec. 19. Section 716A.12, Code 1991, is amended to read as
11 follows:

12 716A.12 COMPUTER THEFT IN THE THIRD DEGREE.

13 Computer theft is computer theft in the third degree when
14 the theft involves or results in a loss of services or
15 property of more than one five hundred dollars but not more
16 than five-hundred one thousand dollars. Computer theft in the
17 third degree is an aggravated misdemeanor.

18 Sec. 20. Section 716A.13, Code 1991, is amended to read as
19 follows:

20 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

21 Computer theft is computer theft in the fourth degree when
22 the theft involves or results in a loss of services or
23 property of more than fifty one hundred dollars but not more
24 than one five hundred dollars. Computer theft in the fourth
25 degree is a serious misdemeanor.

26 Sec. 21. Section 716A.14, Code 1991, is amended to read as
27 follows:

28 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

29 Computer theft is computer theft in the fifth degree when
30 the theft involves or results in a loss of services or
31 property of not more than fifty one hundred dollars. Computer
32 theft in the fifth degree is a simple misdemeanor.

33 EXPLANATION

34 The bill changes the public offenses of theft, fraudulent
35 practices, false use of a credit card, criminal mischief,

1 computer damage, and computer theft. The bill alters these
 2 property offenses by increasing the dollar values of the
 3 property taken, damaged, or otherwise misappropriated, that
 4 are necessary to commit various degrees of the offense. The
 5 bill changes these offenses as follows:

6	<u>OFFENSE-DEGREE</u>	<u>PUNISHMENT</u>	<u>PROPERTY VALUE CURRENT/PROPOSED</u>
7	Theft - 1st	"C" felony	over \$5,000/over \$10,000
8	Theft - 2nd	"D" felony	over \$500 to \$5,000/ 9 over \$1,000 to \$10,000
10			motor vehicle, up to \$5,000/ 11 motor vehicle, up to \$10,000
12	Theft - 3rd	Aggravated	over \$100 to \$500/ 13 Misdemeanor over \$500 to \$1,000
14			with two priors, up to \$100/ 15 with two priors, up to \$500
16	Theft - 4th	Serious	over \$50 to \$100/ 17 Misdemeanor over \$100 to \$500
18	Theft - 5th	Simple	up to \$50/up to \$100 19 Misdemeanor
20	Fraudulent		
21	Practices - 1st	"C" felony	over \$5,000/over \$10,000
22	Fraudulent		
23	Practices - 2nd	"D" felony	over \$500 to \$5,000/ 24 over \$1,000 to \$10,000
25			with two priors, up to \$500/ 26 with two priors, up to \$1,000
27	Fraudulent		
28	Practices - 3rd	Aggravated	over \$100 to \$500/ 29 Misdemeanor over \$500 to \$1,000
30	Fraudulent		
31	Practices - 4th	Serious	over \$50 to \$100/ 32 Misdemeanor over \$100 to \$500
33	Fraudulent		
34	Practices - 5th	Simple	up to \$50/up to \$100 35 Misdemeanor

1	Credit Cards	"D" felony	over \$500/over \$1,000
2	Credit Cards	Aggravated	up to \$500/up to \$1,000
3		Misdemeanor	
4	Criminal		
5	Mischief - 1st	"C" felony	over \$5,000/over \$10,000
6	Criminal		
7	Mischief - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
8			
9	Criminal		
10	Mischief - 3rd	Aggravated	over \$200 to \$500/ over \$500 to \$1,000
11		Misdemeanor	
12	Criminal		
13	Mischief - 4th	Serious	over \$100 to \$200/ over \$100 to \$500
14		Misdemeanor	
15	Computer		
16	Damage - 1st	"C" felony	over \$5,000/over \$10,000
17	Computer		
18	Damage - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
19			
20	Computer		
21	Damage - 3rd	Aggravated	over \$100 to \$500/ over \$500 to \$1,000
22		Misdemeanor	
23	Computer		
24	Damage - 4th	Serious	over \$50 to \$100/ over \$100 to \$500
25		Misdemeanor	
26	Computer		
27	Damage - 5th	Simple	up to \$50/up to \$100
28		Misdemeanor	
29	Computer		
30	Theft - 1st	"C" felony	over \$5,000/over \$10,000
31	Computer		
32	Theft - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
33			
34	Computer		
35	Theft - 3rd	Aggravated	over \$100 to \$500/

- 1 Misdemeanor over \$500 to \$1,000
- 2 Computer
- 3 Theft - 4th Serious over \$50 to \$100/
- 4 Misdemeanor over \$100 to \$500
- 5 Computer
- 6 Theft - 5th Simple up to \$50/up to \$100
- 7 Misdemeanor
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SENATE FILE 2266
FISCAL NOTE

A fiscal note for Senate File 2266 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2266 restructures the public offenses of theft, fraudulent practices, false use of a credit card, criminal mischief, computer damage, and computer theft. The dollar values of the property taken, damaged, or otherwise misappropriated, are increased for the amount necessary to commit the various degrees of these property offenses.

Assumptions

1. The changes made to computer damage and theft offenses will have no impact since there were no convictions for these offenses during FY 1991.
2. Future conviction and sentencing patterns for all of the offenses changed by Senate File 2266 will be similar to current patterns.
3. The number of convicted offenders for other offenses, who are in prison, under Community Based Corrections (CBC) supervision, and in jails will continue to increase.
4. The current prison population is 4,332 inmates, which is 136.9% of current designed capacity.

Fiscal Impact

It is anticipated that 160 fewer inmates will be sent to prison by year-end 1995, that 790 fewer offenders will be on probation annually, and that 49 fewer offenders will be in jail annually. However, the overall demand for criminal justice system resources will not decrease. Rather, the demand for these resources may increase at a decreasing rate.

Sources: Department of Human Rights
Department of Corrections

(LSB 5290sv, BAL)

FILED MARCH 10, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

LSB 5290SV 74

STURGEON, CH.
PETERSON
FUHRMAN

SSB 2053
JUDICIARY — now —

SENATE/HOUSE FILE 2266
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the property offenses of theft, fraudulent
2 practices, false use of a credit card, criminal mischief,
3 computer damage, and computer theft, and changing the dollar
4 values of the property involved in order to commit various
5 degrees of these offenses.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 714.2, Code 1991, is amended to read as
2 follows:

3 714.2 DEGREES OF THEFT.

4 1. The theft of property exceeding five ten thousand
5 dollars in value, or the theft of property from the person of
6 another, or from a building which has been destroyed or left
7 unoccupied because of physical disaster, riot, bombing, or the
8 proximity of battle, or the theft of property which has been
9 removed from a building because of a physical disaster, riot,
10 bombing, or the proximity of battle, is theft in the first
11 degree. Theft in the first degree is a class "C" felony.

12 2. The theft of property exceeding five-hundred one
13 thousand dollars but not exceeding five ten thousand dollars
14 in value or theft of a motor vehicle as defined in chapter 321
15 not exceeding five ten thousand dollars in value, is theft in
16 the second degree. Theft in the second degree is a class "D"
17 felony. However, for purposes of this subsection, "motor
18 vehicle" does not include a motorized bicycle as defined in
19 section 321.1, subsection 3, paragraph "b".

20 3. The theft of property exceeding one five hundred
21 dollars but not exceeding five-hundred one thousand dollars in
22 value, or the theft of any property not exceeding one five
23 hundred dollars in value by one who has before been twice
24 convicted of theft, is theft in the third degree. Theft in
25 the third degree is an aggravated misdemeanor.

26 4. The theft of property exceeding fifty one hundred
27 dollars in value but not exceeding one five hundred dollars in
28 value is theft in the fourth degree. Theft in the fourth
29 degree is a serious misdemeanor.

30 5. The theft of property not exceeding fifty one hundred
31 dollars in value is theft in the fifth degree. Theft in the
32 fifth degree is a simple misdemeanor.

33 Sec. 2. Section 714.9, Code 1991, is amended to read as
34 follows:

35 714.9 FRAUDULENT PRACTICE IN THE FIRST DEGREE.

1 Fraudulent practice in the first degree is a fraudulent
2 practice where the amount of money or value of property
3 involved exceeds five ten thousand dollars.

4 Fraudulent practice in the first degree is a class "C"
5 felony.

6 Sec. 3. Section 714.10, Code 1991, is amended to read as
7 follows:

8 714.10 FRAUDULENT PRACTICE IN THE SECOND DEGREE.

9 Fraudulent practice in the second degree is the following:

10 1. A fraudulent practice where the amount of money or
11 value of property or services involved exceeds five-hundred
12 one thousand dollars but does not exceed five ten thousand
13 dollars.

14 2. A fraudulent practice where the amount of money or
15 value of property or services involved does not exceed five
16 hundred one thousand dollars by one who has been convicted of
17 a fraudulent practice twice before.

18 Fraudulent practice in the second degree is a class "D"
19 felony.

20 Sec. 4. Section 714.11, subsection 1, Code 1991, is
21 amended to read as follows:

22 1. A fraudulent practice where the amount of money or
23 value of property or service involved exceeds one five hundred
24 dollars but does not exceed five-hundred one thousand dollars.

25 Sec. 5. Section 714.12, Code 1991, is amended to read as
26 follows:

27 714.12 FRAUDULENT PRACTICE IN THE FOURTH DEGREE.

28 Fraudulent practice in the fourth degree is a fraudulent
29 practice where the amount of money or value of property or
30 services involved exceeds fifty one hundred dollars but does
31 not exceed one five hundred dollars.

32 Fraudulent practice in the fourth degree is a serious
33 misdemeanor.

34 Sec. 6. Section 714.13, Code 1991, is amended to read as
35 follows:

1 714.13 FRAUDULENT PRACTICE IN THE FIFTH DEGREE.

2 Fraudulent practice in the fifth degree is a fraudulent
3 practice where the amount of money or value of property or
4 services involved does not exceed fifty one hundred dollars.

5 Fraudulent practice in the fifth degree is a simple
6 misdemeanor.

7 Sec. 7. Section 715A.6, subsection 2, Code 1991, is
8 amended to read as follows:

9 2. An offense under this section is a class "D" felony if
10 the value of the property or services secured or sought to be
11 secured by means of the credit card is greater than five
12 hundred one thousand dollars, otherwise the offense is an
13 aggravated misdemeanor.

14 Sec. 8. Section 716.3, Code 1991, is amended to read as
15 follows:

16 716.3 CRIMINAL MISCHIEF IN THE FIRST DEGREE.

17 Criminal mischief is criminal mischief in the first degree
18 if the cost of replacing, repairing, or restoring the property
19 so damaged, defaced, altered, or destroyed is more than five
20 ten thousand dollars, or if such acts are intended to or do in
21 fact cause a substantial interruption or impairment of service
22 rendered to the public by a gas, electric, steam or waterworks
23 corporation, telephone or telegraph corporation, common
24 carrier, or a public utility operated by a municipality.
25 Criminal mischief in the first degree is a class "C" felony.

26 Sec. 9. Section 716.4, Code 1991, is amended to read as
27 follows:

28 716.4 CRIMINAL MISCHIEF IN THE SECOND DEGREE.

29 Criminal mischief is criminal mischief in the second degree
30 if the cost of replacing, repairing, or restoring the property
31 so damaged, defaced, altered, or destroyed exceeds five
32 hundred one thousand dollars but does not exceed five ten
33 thousand dollars. Criminal mischief in the second degree is a
34 class "D" felony.

35 Sec. 10. Section 716.5, unnumbered paragraph 1, Code 1991,

2053

1 is amended to read as follows:

2 Criminal mischief is criminal mischief in the third degree
3 if the cost of replacing, repairing, or restoring the property
4 so damaged, defaced, altered, or destroyed exceeds two five
5 hundred dollars, but does not exceed five-hundred one thousand
6 dollars, or if the property is a deed, will, commercial paper
7 or any civil or criminal process or other instrument having
8 legal effect, or if the act consists of rendering
9 substantially less effective than before any light, signal,
10 obstruction, barricade, or guard which has been placed or
11 erected for the purpose of enclosing any unsafe or dangerous
12 place or of alerting persons to an unsafe or dangerous
13 condition. Criminal mischief in the third degree is an
14 aggravated misdemeanor.

15 Sec. 11. Section 716.6, Code 1991, is amended to read as
16 follows:

17 716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

18 Criminal mischief is criminal mischief in the fourth degree
19 if the cost of replacing, repairing, or restoring the property
20 so damaged, defaced, altered, or destroyed exceeds one hundred
21 dollars, but does not exceed two five hundred dollars.

22 Criminal mischief in the fourth degree is a serious
23 misdemeanor. All criminal mischief which is not criminal
24 mischief in the first degree, second degree, third degree, or
25 fourth degree is criminal mischief in the fifth degree.
26 Criminal mischief in the fifth degree is a simple misdemeanor.

27 Sec. 12. Section 716A.4, Code 1991, is amended to read as
28 follows:

29 716A.4 COMPUTER DAMAGE IN THE FIRST DEGREE.

30 Computer damage is computer damage in the first degree when
31 the damage results in a loss of property or services of more
32 than five ten thousand dollars. Computer damage in the first
33 degree is a class "C" felony.

34 Sec. 13. Section 716A.5, Code 1991, is amended to read as
35 follows:

1 716A.5 COMPUTER DAMAGE IN THE SECOND DEGREE.

2 Computer damage is computer damage in the second degree
3 when the damage results in a loss of property or services of
4 more than five-hundred one thousand dollars but not more than
5 five ten thousand dollars. Computer damage in the second
6 degree is a class "D" felony.

7 Sec. 14. Section 716A.6, Code 1991, is amended to read as
8 follows:

9 716A.6 COMPUTER DAMAGE IN THE THIRD DEGREE.

10 Computer damage is computer damage in the third degree when
11 the damage results in a loss of property or services of more
12 than one five hundred dollars but not more than five-hundred
13 one thousand dollars. Computer damage in the third degree is
14 an aggravated misdemeanor.

15 Sec. 15. Section 716A.7, Code 1991, is amended to read as
16 follows:

17 716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

18 Computer damage is computer damage in the fourth degree
19 when the damage results in a loss of property or services of
20 more than fifty one hundred dollars but not more than one five
21 hundred dollars. Computer damage in the fourth degree is a
22 serious misdemeanor.

23 Sec. 16. Section 716A.8, Code 1991, is amended to read as
24 follows:

25 716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

26 Computer damage is computer damage in the fifth degree when
27 the damage results in a loss of property or services of not
28 more than fifty one hundred dollars. Computer damage in the
29 fifth degree is a simple misdemeanor.

30 Sec. 17. Section 716A.10, Code 1991, is amended to read as
31 follows:

32 716A.10 COMPUTER THEFT IN THE FIRST DEGREE.

33 Computer theft is computer theft in the first degree when
34 the theft involves or results in a loss of services or
35 property of more than five ten thousand dollars. Computer

1 theft in the first degree is a class "C" felony.

2 Sec. 18. Section 716A.11, Code 1991, is amended to read as
3 follows:

4 716A.11 COMPUTER THEFT IN THE SECOND DEGREE.

5 Computer theft is computer theft in the second degree when
6 the theft involves or results in a loss of services or
7 property of more than five-hundred one thousand dollars but
8 not more than five ten thousand dollars. Computer theft in
9 the second degree is a class "D" felony.

10 Sec. 19. Section 716A.12, Code 1991, is amended to read as
11 follows:

12 716A.12 COMPUTER THEFT IN THE THIRD DEGREE.

13 Computer theft is computer theft in the third degree when
14 the theft involves or results in a loss of services or
15 property of more than one five hundred dollars but not more
16 than five-hundred one thousand dollars. Computer theft in the
17 third degree is an aggravated misdemeanor.

18 Sec. 20. Section 716A.13, Code 1991, is amended to read as
19 follows:

20 716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

21 Computer theft is computer theft in the fourth degree when
22 the theft involves or results in a loss of services or
23 property of more than fifty one hundred dollars but not more
24 than one five hundred dollars. Computer theft in the fourth
25 degree is a serious misdemeanor.

26 Sec. 21. Section 716A.14, Code 1991, is amended to read as
27 follows:

28 716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

29 Computer theft is computer theft in the fifth degree when
30 the theft involves or results in a loss of services or
31 property of not more than fifty one hundred dollars. Computer
32 theft in the fifth degree is a simple misdemeanor.

33 EXPLANATION

34 The bill changes the public offenses of theft, fraudulent
35 practices, false use of a credit card, criminal mischief,

1 computer damage, and computer theft. The bill alters these
 2 property offenses by increasing the dollar values of the
 3 property taken, damaged, or otherwise misappropriated, that
 4 are necessary to commit various degrees of the offense. The
 5 bill changes these offenses as follows:

6	<u>OFFENSE-DEGREE</u>	<u>PUNISHMENT</u>	<u>PROPERTY VALUE CURRENT/PROPOSED</u>
7	Theft - 1st	"C" felony	over \$5,000/over \$10,000
8	Theft - 2nd	"D" felony	over \$500 to \$5,000/ 9 over \$1,000 to \$10,000
10			motor vehicle, up to \$5,000/ 11 motor vehicle, up to \$10,000
12	Theft - 3rd	Aggravated	over \$100 to \$500/ 13 Misdemeanor over \$500 to \$1,000
14			with two priors, up to \$100/ 15 with two priors, up to \$500
16	Theft - 4th	Serious	over \$50 to \$100/ 17 Misdemeanor over \$100 to \$500
18	Theft - 5th	Simple	up to \$50/up to \$100 19 Misdemeanor
20	Fraudulent		
21	Practices - 1st	"C" felony	over \$5,000/over \$10,000
22	Fraudulent		
23	Practices - 2nd	"D" felony	over \$500 to \$5,000/ 24 over \$1,000 to \$10,000
25			with two priors, up to \$500/ 26 with two priors, up to \$1,000
27	Fraudulent		
28	Practices - 3rd	Aggravated	over \$100 to \$500/ 29 Misdemeanor over \$500 to \$1,000
30	Fraudulent		
31	Practices - 4th	Serious	over \$50 to \$100/ 32 Misdemeanor over \$100 to \$500
33	Fraudulent		
34	Practices - 5th	Simple	up to \$50/up to \$100 35 Misdemeanor

1	Credit Cards	"D" felony	over \$500/over \$1,000
2	Credit Cards	Aggravated	up to \$500/up to \$1,000
3		Misdemeanor	
4	Criminal		
5	Mischief - 1st	"C" felony	over \$5,000/over \$10,000
6	Criminal		
7	Mischief - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
8			
9	Criminal		
10	Mischief - 3rd	Aggravated	over \$200 to \$500/ over \$500 to \$1,000
11		Misdemeanor	
12	Criminal		
13	Mischief - 4th	Serious	over \$100 to \$200/ over \$100 to \$500
14		Misdemeanor	
15	Computer		
16	Damage - 1st	"C" felony	over \$5,000/over \$10,000
17	Computer		
18	Damage - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
19			
20	Computer		
21	Damage - 3rd	Aggravated	over \$100 to \$500/ over \$500 to \$1,000
22		Misdemeanor	
23	Computer		
24	Damage - 4th	Serious	over \$50 to \$100/ over \$100 to \$500
25		Misdemeanor	
26	Computer		
27	Damage - 5th	Simple	up to \$50/up to \$100
28		Misdemeanor	
29	Computer		
30	Theft - 1st	"C" felony	over \$5,000/over \$10,000
31	Computer		
32	Theft - 2nd	"D" felony	over \$500 to \$5,000/ over \$1,000 to \$10,000
33			
34	Computer		
35	Theft - 3rd	Aggravated	over \$100 to \$500/

1 Misdemeanor over \$500 to \$1,000
2 Computer
3 Theft - 4th Serious over \$50 to \$100/
4 Misdemeanor over \$100 to \$500
5 Computer
6 Theft - 5th Simple up to \$50/up to \$100
7 Misdemeanor

8 BACKGROUND STATEMENT

9 SUBMITTED BY THE AGENCY

10 Degrees of property crimes, based on the value of property
11 stolen, have not been updated since the criminal code was
12 adopted in 1978. In addition, the property crimes are
13 internally inconsistent in property value and seriousness of
14 the crime. The bill is designed to reflect inflationary
15 changes and to modernize the current property crime
16 provisions, and to make all property crimes consistent.

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SENATE FILE 2266

AN ACT

RELATING TO THE PROPERTY OFFENSES OF THEFT, FRAUDULENT PRACTICES, FALSE USE OF A CREDIT CARD, CRIMINAL MISCHIEF, COMPUTER DAMAGE, AND COMPUTER THEFT, AND CHANGING THE DOLLAR VALUES OF THE PROPERTY INVOLVED IN ORDER TO COMMIT VARIOUS DEGREES OF THESE OFFENSES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 714.2, Code 1991, is amended to read as follows:

714.2 DEGREES OF THEFT.

1. The theft of property exceeding five ten thousand dollars in value, or the theft of property from the person of another, or from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing, or the proximity of battle, or the theft of property which has been removed from a building because of a physical disaster, riot, bombing, or the proximity of battle, is theft in the first degree. Theft in the first degree is a class "C" felony.

2. The theft of property exceeding five-hundred one thousand dollars but not exceeding five ten thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding five ten thousand dollars in value, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 3, paragraph "b".

3. The theft of property exceeding one five hundred dollars but not exceeding five-hundred one thousand dollars in value, or the theft of any property not exceeding one five hundred dollars in value by one who has before been twice

convicted of theft, is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding fifty one hundred dollars in value but not exceeding one five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding fifty one hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Sec. 2. Section 714.9, Code 1991, is amended to read as follows:

714.9 FRAUDULENT PRACTICE IN THE FIRST DEGREE.

Fraudulent practice in the first degree is a fraudulent practice where the amount of money or value of property involved exceeds five ten thousand dollars.

Fraudulent practice in the first degree is a class "C" felony.

Sec. 3. Section 714.10, Code 1991, is amended to read as follows:

714.10 FRAUDULENT PRACTICE IN THE SECOND DEGREE.

Fraudulent practice in the second degree is the following:

1. A fraudulent practice where the amount of money or value of property or services involved exceeds five-hundred one thousand dollars but does not exceed five ten thousand dollars.

2. A fraudulent practice where the amount of money or value of property or services involved does not exceed five hundred one thousand dollars by one who has been convicted of a fraudulent practice twice before.

Fraudulent practice in the second degree is a class "D" felony.

Sec. 4. Section 714.11, subsection 1, Code 1991, is amended to read as follows:

1. A fraudulent practice where the amount of money or value of property or service involved exceeds one five hundred dollars but does not exceed five-hundred one thousand dollars.

Sec. 5. Section 714.12, Code 1991, is amended to read as follows:

714.12 FRAUDULENT PRACTICE IN THE FOURTH DEGREE.

Fraudulent practice in the fourth degree is a fraudulent practice where the amount of money or value of property or services involved exceeds fifty one hundred dollars but does not exceed one five hundred dollars.

Fraudulent practice in the fourth degree is a serious misdemeanor.

Sec. 6. Section 714.13, Code 1991, is amended to read as follows:

714.13 FRAUDULENT PRACTICE IN THE FIFTH DEGREE.

Fraudulent practice in the fifth degree is a fraudulent practice where the amount of money or value of property or services involved does not exceed fifty one hundred dollars.

Fraudulent practice in the fifth degree is a simple misdemeanor.

Sec. 7. Section 715A.6, subsection 2, Code 1991, is amended to read as follows:

2. An offense under this section is a class "D" felony if the value of the property or services secured or sought to be secured by means of the credit card is greater than five hundred one thousand dollars, otherwise the offense is an aggravated misdemeanor.

Sec. 8. Section 716.3, Code 1991, is amended to read as follows:

716.3 CRIMINAL MISCHIEF IN THE FIRST DEGREE.

Criminal mischief is criminal mischief in the first degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed is more than five ten thousand dollars, or if such acts are intended to or do in fact cause a substantial interruption or impairment of service rendered to the public by a gas, electric, steam or waterworks corporation, telephone or telegraph corporation, common carrier, or a public utility operated by a municipality. Criminal mischief in the first degree is a class "C" felony.

Sec. 9. Section 716.4, Code 1991, is amended to read as follows:

716.4 CRIMINAL MISCHIEF IN THE SECOND DEGREE.

Criminal mischief is criminal mischief in the second degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds five hundred one thousand dollars but does not exceed five ten thousand dollars. Criminal mischief in the second degree is a class "D" felony.

Sec. 10. Section 716.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

Criminal mischief is criminal mischief in the third degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds two five hundred dollars, but does not exceed five-hundred one thousand dollars, or if the property is a deed, will, commercial paper or any civil or criminal process or other instrument having legal effect, or if the act consists of rendering substantially less effective than before any light, signal, obstruction, barricade, or guard which has been placed or erected for the purpose of enclosing any unsafe or dangerous place or of alerting persons to an unsafe or dangerous condition. Criminal mischief in the third degree is an aggravated misdemeanor.

Sec. 11. Section 716.6, Code 1991, is amended to read as follows:

716.6 CRIMINAL MISCHIEF IN THE FOURTH AND FIFTH DEGREES.

Criminal mischief is criminal mischief in the fourth degree if the cost of replacing, repairing, or restoring the property so damaged, defaced, altered, or destroyed exceeds one hundred dollars, but does not exceed two five hundred dollars. Criminal mischief in the fourth degree is a serious misdemeanor. All criminal mischief which is not criminal mischief in the first degree, second degree, third degree, or fourth degree is criminal mischief in the fifth degree. Criminal mischief in the fifth degree is a simple misdemeanor.

Sec. 12. Section 716A.4, Code 1991, is amended to read as follows:

716A.4 COMPUTER DAMAGE IN THE FIRST DEGREE.

Computer damage is computer damage in the first degree when the damage results in a loss of property or services of more than five ten thousand dollars. Computer damage in the first degree is a class "C" felony.

Sec. 13. Section 716A.5, Code 1991, is amended to read as follows:

716A.5 COMPUTER DAMAGE IN THE SECOND DEGREE.

Computer damage is computer damage in the second degree when the damage results in a loss of property or services of more than five-hundred one thousand dollars but not more than five ten thousand dollars. Computer damage in the second degree is a class "D" felony.

Sec. 14. Section 716A.6, Code 1991, is amended to read as follows:

716A.6 COMPUTER DAMAGE IN THE THIRD DEGREE.

Computer damage is computer damage in the third degree when the damage results in a loss of property or services of more than one five hundred dollars but not more than five-hundred one thousand dollars. Computer damage in the third degree is an aggravated misdemeanor.

Sec. 15. Section 716A.7, Code 1991, is amended to read as follows:

716A.7 COMPUTER DAMAGE IN THE FOURTH DEGREE.

Computer damage is computer damage in the fourth degree when the damage results in a loss of property or services of more than fifty one hundred dollars but not more than one five hundred dollars. Computer damage in the fourth degree is a serious misdemeanor.

Sec. 16. Section 716A.8, Code 1991, is amended to read as follows:

716A.8 COMPUTER DAMAGE IN THE FIFTH DEGREE.

Computer damage is computer damage in the fifth degree when the damage results in a loss of property or services of not more than fifty one hundred dollars. Computer damage in the fifth degree is a simple misdemeanor.

Sec. 17. Section 716A.10, Code 1991, is amended to read as follows:

716A.10 COMPUTER THEFT IN THE FIRST DEGREE.

Computer theft is computer theft in the first degree when the theft involves or results in a loss of services or property of more than five ten thousand dollars. Computer theft in the first degree is a class "C" felony.

Sec. 18. Section 716A.11, Code 1991, is amended to read as follows:

716A.11 COMPUTER THEFT IN THE SECOND DEGREE.

Computer theft is computer theft in the second degree when the theft involves or results in a loss of services or property of more than five-hundred one thousand dollars but not more than five ten thousand dollars. Computer theft in the second degree is a class "D" felony.

Sec. 19. Section 716A.12, Code 1991, is amended to read as follows:

716A.12 COMPUTER THEFT IN THE THIRD DEGREE.

Computer theft is computer theft in the third degree when the theft involves or results in a loss of services or property of more than one five hundred dollars but not more than five-hundred one thousand dollars. Computer theft in the third degree is an aggravated misdemeanor.

Sec. 20. Section 716A.13, Code 1991, is amended to read as follows:

716A.13 COMPUTER THEFT IN THE FOURTH DEGREE.

Computer theft is computer theft in the fourth degree when the theft involves or results in a loss of services or property of more than fifty one hundred dollars but not more than one five hundred dollars. Computer theft in the fourth degree is a serious misdemeanor.

Sec. 21. Section 716A.14, Code 1991, is amended to read as follows:

716A.14 COMPUTER THEFT IN THE FIFTH DEGREE.

Computer theft is computer theft in the fifth degree when the theft involves or results in a loss of services or property of not more than fifty one hundred dollars. Computer theft in the fifth degree is a simple misdemeanor.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2266, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 14, 1992

TERRY E. BRANSTAD
Governor