

1 SB325  
2 199282-2  
3 By Senator Singleton  
4 RFD: Judiciary  
5 First Read: 25-APR-19

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4  
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7  
8 SYNOPSIS: Under existing law, theft of property  
9 offenses have threshold amounts established for  
10 each offense.

11 This bill would amend the threshold amounts  
12 for theft of property offenses.

13 This bill would also provide for technical  
14 revisions.

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

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

9  
10   A BILL  
11   TO BE ENTITLED  
12   AN ACT

13  
14                   Relating to crimes and offenses; to amend Sections  
15                   13A-8-1, 13A-8-3, 13A-8-4, 13A-8-4.1, 13A-8-5, 13A-8-7,  
16                   13A-8-8, 13A-8-8.1, 13A-8-9, 13A-8-10, 13A-8-10.1, 13A-8-10.2,  
17                   13A-8-10.25, 13A-8-10.3, 13A-8-16, 13A-8-17, 13A-8-18,  
18                   13A-8-18.1, and 13A-8-19, Code of Alabama 1975, to amend the  
19                   threshold amounts for theft of property offenses; to provide  
20                   for technical revisions; and in connection therewith would  
21                   have as its purpose or effect the requirement of a new or  
22                   increased expenditure of local funds within the meaning of  
23                   Amendment 621 of the Constitution of Alabama of 1901, now  
24                   appearing as Section 111.05 of the Official Recompilation of  
25                   the Constitution of Alabama of 1901, as amended.  
26                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1                   Section 1. Sections 13A-8-1, 13A-8-3, 13A-8-4,  
2                   13A-8-4.1, 13A-8-5, 13A-8-7, 13A-8-8, 13A-8-8.1, 13A-8-9,  
3                   13A-8-10, 13A-8-10.1, 13A-8-10.2, 13A-8-10.25, 13A-8-10.3,  
4                   13A-8-16, 13A-8-17, 13A-8-18, 13A-8-18.1, and 13A-8-19, Code  
5                   of Alabama 1975, are amended to read as follows:

6                   "§13A-8-1.

7                   "The following definitions are applicable in this  
8                   article unless the context otherwise requires:

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

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

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

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

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

20                  "e. Sells or otherwise transfers or encumbers  
21                  property, failing to disclose a lien, adverse claim, or other  
22                  legal impediment to the enjoyment of the property when the  
23                  defendant is under a duty to do so, whether that impediment is  
24                  or is not valid, or is not a matter of official record;~~or.~~

25                  "f. Promises performance which the defendant does  
26                  not intend to perform or knows will not be performed. Failure

1 to perform, standing alone, however, is not proof that the  
2 defendant did not intend to perform.

3 "The term "deception" does not, however, include  
4 falsity as to matters having no pecuniary significance, or  
5 puffing by statements unlikely to deceive ordinary persons.  
6 "Puffing" means an exaggerated commendation of wares or  
7 services.

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

9 "a. To withhold property or cause it to be withheld  
10 from a person permanently or for such period or under such  
11 circumstances that all or a portion of its use or benefit  
12 would be lost to him or her;~~or.~~

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

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

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

20 "e. To subject the property to the claim of a person  
21 other than the owner.

22 "(3) FIFTH WHEEL. Coupling between a trailer and a  
23 vehicle used for towing.

24 "(4) FINANCIAL INSTITUTION. A bank, insurance  
25 company, credit union, safety deposit company, savings and  
26 loan association, investment trust, or other organization held

1 out to the public as a place of deposit of funds or medium of  
2 savings or collective investment.

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

5 "(6) GOVERNMENT. The United States, any state or any  
6 county, municipality, or other political unit within territory  
7 belonging to the United States, or any department, agency, or  
8 subdivision of any of the foregoing, or any corporation or  
9 other association carrying out the functions of government, or  
10 any corporation or agency formed pursuant to interstate  
11 compact or international treaty.

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

15 "(7) OBTAINS. Such term means any of the following:

16 "a. In relation to property, to bring about a  
17 transfer or purported transfer of a legally recognized  
18 interest in the property, whether to the obtainer or another  
19 or.

20 "b. In relation to labor or service, to secure  
21 performance thereof.

22 "(8) OBTAINS OR EXERTS CONTROL or OBTAINS OR EXERTS  
23 UNAUTHORIZED CONTROL over property includes but is not  
24 necessarily limited to the taking, carrying away, or the sale,  
25 conveyance, or transfer of title to, or interest in, or  
26 possession of, property, and includes but is not necessarily  
27 limited to conduct heretofore defined or known as common law

1 larceny by trespassory taking, common law larceny by trick,  
2 larceny by conversion, embezzlement, extortion, or obtaining  
3 property by false pretenses.

4 "(9) OWNER. A person, other than the defendant, who  
5 has possession of or any other interest in the property  
6 involved, even though that interest or possession is unlawful,  
7 and without whose consent the defendant has no authority to  
8 exert control over the property.

9 "A secured party, as defined in Section  
10 7-9A-102~~(a)~~(72), is not an owner in relation to a defendant  
11 who is a debtor, as defined in Section 7-9A-102~~(a)~~(28), in  
12 respect of property in which the secured party has a security  
13 interest, as defined in Section 7-1-201~~(37)~~.

14 "(10) PROPELLED VEHICLE. Any propelled device in,  
15 upon, or by which any person or property is transported on  
16 land, water, or in the air, and such term includes motor  
17 vehicles, motorcycles, motorboats, aircraft, and any vessel  
18 propelled by machinery, whether or not that machinery is the  
19 principal source of propulsion.

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

1           "Commodities of a public utility nature, such as  
2 gas, electricity, steam, and water, constitute property, but  
3 the supplying of such a commodity to premises from an outside  
4 source by means of wires, pipes, conduits, or other equipment  
5 shall be deemed a rendition of a service rather than a sale or  
6 delivery of property.

7           "(12) RECEIVING. Such term includes, but is not  
8 limited to, acquiring possession, control, or title and taking  
9 a security interest in the property.

10           "(13) STOLEN. Obtained by theft, theft by  
11 appropriating lost property, robbery, or extortion.

12           "(14) THREAT. A menace, however communicated, ~~to~~  
13 that has the intent to do any of the following:

14           "a. Cause physical harm to the person threatened or  
15 to any other person;~~or.~~

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

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

19           "d. Engage in other conduct constituting a crime;  
20 ~~or.~~

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

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

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



1            "h. Testify or provide information or withhold  
2 testimony or information with respect to another's legal claim  
3 or defense;~~or.~~

4            "i. Take action as an official against anyone or  
5 anything, or withhold official action, or cause such action or  
6 withholding;~~or.~~

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

11           "k. Do any other act which would not in itself  
12 substantially benefit the actor but which is calculated to  
13 harm substantially another person with respect to his or her  
14 health, safety, business, calling, career, financial  
15 condition, reputation, or personal relationships.

16           "(15) VALUE. The market value of the property at the  
17 time and place of the criminal act.

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

22           "a. The value of an instrument constituting an  
23 evidence of debt, such as a check, draft, or promissory note,  
24 shall be deemed the amount due or collectible thereon or  
25 thereby, that figure ordinarily being the face amount of the  
26 indebtedness less any portion thereof which has been  
27 satisfied.

1            "b. The value of any other instrument that creates,  
2 releases, discharges, or otherwise affects any valuable legal  
3 right, privilege, or obligation shall be deemed the greatest  
4 amount of economic loss which the owner of the instrument  
5 might reasonably suffer by virtue of the loss of the  
6 instrument.

7            "When the value of property cannot be ascertained  
8 pursuant to the standards set forth above, its value shall be  
9 deemed to be an amount not exceeding five hundred dollars  
10 (\$500).

11           "Amounts involved in thefts committed pursuant to  
12 one scheme or course of conduct, whether from the same person  
13 or several persons, may be aggregated in determining the grade  
14 of the offense; provided, that only one conviction may be had  
15 and only one sentence enforced for all thefts included in such  
16 aggregate.

17           "§13A-8-3.

18           "(a) The theft of property ~~which that~~ exceeds ~~two~~  
19 five thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$5,000) in value,  
20 ~~or property of any value taken from the person of another,~~  
21 constitutes theft of property in the first degree.

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

24           "(c) (1) The theft of property which involves all of  
25 the following constitutes theft of property in the first  
26 degree:

1           "a. The theft is a common plan or scheme by one or  
2 more persons; and

3           "b. The object of the common plan or scheme is to  
4 sell or transfer the property to another person or business  
5 that buys the property with knowledge or reasonable belief  
6 that the property is stolen; and

7           "c. The aggregate value of the property stolen is at  
8 least one thousand dollars (\$1,000) within a 180-day period.

9           "(2) If the offense under this subsection involves  
10 two or more counties, prosecution may be commenced in any one  
11 of those counties in which the offense occurred or in which  
12 the property was disposed.

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

15           "§13A-8-4.

16           "(a) The theft of property ~~between one~~ that exceeds  
17 three thousand five hundred dollars ~~(\$1,500)~~ (\$3,500) in value  
18 ~~and two~~ but does not exceed five thousand ~~five hundred~~ dollars  
19 ~~(\$2,500)~~ (\$5,000) in value, and which is not taken from the  
20 person of another, constitutes theft of property in the second  
21 degree.

22           "~~(b) Theft of property in the second degree is a~~  
23 ~~Class C felony.~~

24           "~~(c)~~ (b) The theft of a firearm, rifle, or shotgun,  
25 regardless of its value, constitutes theft of property in the  
26 second degree.

1           "~~(d)~~ (c) The theft of any substance controlled by  
2 Chapter 2 of Title 20 or any amendments thereto, regardless of  
3 value, constitutes theft of property in the second degree.

4           "~~(e)~~ (d) The theft of any livestock which includes  
5 cattle, swine, equine or equidae, or sheep, regardless of  
6 their value, constitutes theft of property in the second  
7 degree.

8           "(e) Theft of property in the second degree is a  
9 Class C felony.

10           "§13A-8-4.1.

11           "(a) The theft of property that exceeds two thousand  
12 five hundred dollars ~~(\$500)~~ (\$2,500) in value but does not  
13 exceed ~~one thousand four hundred and ninety-nine dollars~~  
14 ~~(\$1,499)~~ three thousand five hundred dollars (\$3,500) in  
15 value, and which is not taken from the person of another,  
16 constitutes theft of property in the third degree.

17           "~~(b) Theft of property in the third degree is a~~  
18 ~~Class D felony.~~

19           "~~(c)~~ (b) The theft of a credit card or a debit card,  
20 regardless of its value, constitutes theft of property in the  
21 third degree.

22           "(c) Theft of property in the third degree is a  
23 Class D felony.

24           "§13A-8-5.

25           "(a) The theft of property ~~which~~ that does not  
26 exceed two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in

1 value and which is not taken from the person of another  
2 constitutes theft of property in the fourth degree.

3 "(b) Theft of property in the fourth degree is a  
4 Class A misdemeanor.

5 "§13A-8-7.

6 "(a) The theft of lost property ~~which~~ that exceeds  
7 ~~two~~ five thousand ~~five hundred~~ dollars ~~(\$2,500)~~ (\$5,000) in  
8 value constitutes theft of lost property in the first degree.

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

11 "§13A-8-8.

12 "(a) The theft of lost property ~~between one~~ that  
13 exceeds three thousand five hundred dollars ~~(\$1,500)~~ (\$3,500)  
14 in value ~~and two~~ but does not exceed three thousand five  
15 hundred dollars ~~(\$2,500)~~ (\$3,500) in value constitutes theft  
16 of lost property in the second degree.

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

19 "§13A-8-8.1.

20 "(a) The theft of lost property ~~which~~ that exceeds  
21 two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in value but  
22 does not exceed ~~one thousand four hundred and ninety-nine~~  
23 ~~dollars (\$1,499)~~ three thousand five hundred dollars (\$3,500)  
24 in value constitutes theft of lost property in the third  
25 degree.

26 "(b) Theft of lost property in the third degree is a  
27 Class D felony.

1           "§13A-8-9.

2           "(a) The theft of lost property ~~which~~ that does not  
3 exceed two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in  
4 value constitutes theft of lost property in the fourth degree.

5           "(b) Theft of lost property in the fourth degree is  
6 a Class A misdemeanor.

7           "§13A-8-10.

8           "(a) A person commits the crime of theft of services  
9 if he or she does either of the following:

10           "(1) ~~He intentionally~~ Intentionally obtains services  
11 known by him to be available only for compensation by  
12 deception, threat, false token, or other means to avoid  
13 payment for the services; or

14           "(2) Having control over the disposition of services  
15 of others to which he or she is not entitled, he or she  
16 knowingly diverts those services to his or her own benefit or  
17 to the benefit of another not entitled thereto.

18           "(b) "Services" includes, but is not necessarily  
19 limited to, labor, professional services, transportation,  
20 telephone, or other public services, accommodation in motels,  
21 hotels, restaurants or elsewhere, admission to exhibitions,  
22 computer services, and the supplying of equipment for use.

23           "(c) Where compensation for services is ordinarily  
24 paid immediately upon the rendering of them, as in the case of  
25 motels, hotels, restaurants and the like, absconding without  
26 payment or bona fide offer to pay is prima facie evidence

1 under subsection (a) that the services were obtained by  
2 deception.

3 "(d) If services are obtained under subdivision (a)  
4 (1) from a hotel, motel, inn, restaurant or cafe, no  
5 prosecution can be commenced after 120 days from the time of  
6 the offense.

7 "§13A-8-10.1.

8 "(a) The theft of services ~~which that~~ exceeds ~~two~~  
9 five thousand five hundred dollars ~~(\$2,500)~~ (\$5,000) in value  
10 constitutes theft of services in the first degree.

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

13 "§13A-8-10.2.

14 "(a) The theft of services ~~between one~~ that exceeds  
15 three thousand five hundred dollars ~~(\$1,500)~~ (\$3,500) in value  
16 ~~and two~~ but does not exceed five thousand ~~five hundred~~ dollars  
17 ~~(\$2,500)~~ (\$5,000) in value constitutes theft of services in  
18 the second degree.

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

21 "§13A-8-10.25.

22 "(a) The theft of services ~~which that~~ exceeds two  
23 thousand five hundred dollars ~~(\$500)~~ (\$2,500) in value but  
24 does not exceed ~~one thousand four hundred and ninety-nine~~  
25 ~~dollars (\$1,499)~~ three thousand five hundred dollars (\$3,500)  
26 in value constitutes theft of services in the third degree.

1           "(b) Theft of services in the third degree is a  
2 Class D felony.

3           "§13A-8-10.3.

4           "(a) The theft of services ~~which~~ that does not  
5 exceed two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in  
6 value constitutes theft of services in the fourth degree.

7           "(b) Theft of services in the fourth degree is a  
8 Class A misdemeanor.

9           "§13A-8-16.

10          "(a) A person commits the crime of receiving stolen  
11 property if he or she intentionally receives, retains, or  
12 disposes of stolen property knowing that it has been stolen or  
13 having reasonable grounds to believe it has been stolen,  
14 unless the property is received, retained, or disposed of with  
15 intent to restore it to the owner.

16          "(b) If a person does any of the following, it shall  
17 be prima facie evidence that he or she has the requisite  
18 knowledge or belief:

19           "(1) On two separate occasions within a year prior  
20 to the commission of the instant offense of receiving stolen  
21 property is found in possession or control of stolen property ~~or~~  
22 or.

23           "(2) Possesses goods or property which have been  
24 recently stolen, ~~or.~~

25           "(3) Regularly buys, sells, uses or handles in the  
26 course of business property of the sort received, and acquired  
27 the property without making reasonable inquiry whether the



1 person selling or delivering the property to him had a legal  
2 right to do so, ~~this shall be prima facie evidence that he has~~  
3 ~~the requisite knowledge or belief.~~

4 "(c) The fact that the person who stole the property  
5 has not been convicted, apprehended or identified is not a  
6 defense to a charge of receiving stolen property.

7 "§13A-8-17.

8 "(a) Receiving stolen property which exceeds ~~two~~  
9 five thousand five hundred dollars ~~(\$2,500)~~ (\$5,000) in value  
10 constitutes receiving stolen property in the first degree.

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

13 "§13A-8-18.

14 "(a) Receiving stolen property: ~~(1) Which is between~~  
15 ~~one~~ that exceeds three thousand five hundred dollars ~~(\$1,500)~~  
16 (\$3,500) in value ~~and two~~ but does not exceed five thousand  
17 ~~five hundred~~ dollars ~~(\$2,500)~~ (\$5,000) in value; ~~or.~~

18 ~~"(2) Of~~ (b) Receiving stolen property of any value  
19 under the circumstances described in subdivision (b) (3) of  
20 Section 13A-8-16~~7~~1 constitutes receiving stolen property in  
21 the second degree.

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

24 "§13A-8-18.1.

25 "(a) Receiving stolen property ~~which~~ that exceeds  
26 two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in value but  
27 does not exceed ~~one thousand four hundred and ninety-nine~~

1 ~~dollars (\$1,499)~~ three thousand five hundred dollars (\$3,500)  
2 in value constitutes receiving stolen property in the third  
3 degree.

4 "(b) Receiving stolen property in the third degree  
5 is a Class D felony.

6 "§13A-8-19.

7 "(a) Receiving stolen property ~~which~~ that does not  
8 exceed two thousand five hundred dollars ~~(\$500)~~ (\$2,500) in  
9 value constitutes receiving stolen property in the fourth  
10 degree.

11 "(b) Receiving stolen property in the fourth degree  
12 is a Class A misdemeanor."

13 Section 2. Although this bill would have as its  
14 purpose or effect the requirement of a new or increased  
15 expenditure of local funds, the bill is excluded from further  
16 requirements and application under Amendment 621, now  
17 appearing as Section 111.05 of the Official Recompilation of  
18 the Constitution of Alabama of 1901, as amended, because the  
19 bill defines a new crime or amends the definition of an  
20 existing crime.

21 Section 3. This act shall become effective on the  
22 first day of the third month following its passage and  
23 approval by the Governor, or its otherwise becoming law.