

BILL ANALYSIS

S.B. 393
By: Burton
Criminal Jurisprudence
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that current state law fails to reflect more than two decades of inflation with respect to property crimes, including theft, graffiti, and criminal mischief. S.B. 393 seeks to update the property offense threshold for certain offenses and to ensure that the offenses are treated in the manner intended by the legislature, prosecuting less serious offenses in county courts and more serious cases in district courts.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 393 amends the Penal Code to increase the threshold amounts of pecuniary loss resulting from an offense of criminal mischief, interference with railroad property, and graffiti that are used to determine the penalty grade for such an offense. The bill creates a Class C misdemeanor graffiti offense when the amount of pecuniary loss resulting from the offense is less than \$100 and increases the established threshold amounts of pecuniary loss resulting from arson, criminal mischief, and other property damage or destruction-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in statutory provisions regarding those offenses.

S.B. 393 increases the threshold amounts of the monetary value of property or service stolen or the value of merchandise involved in the activity resulting from an offense of theft, theft of service, and organized retail theft, respectively, that are used to determine the penalty grade for such an offense and removes alternative threshold amounts of the monetary value of property stolen applicable in circumstances in which the defendant obtains the property by issuing or passing a check or similar sight order in a specified manner that are used to determine the penalty grade for an offense of theft. The bill creates a Class C misdemeanor organized retail theft offense when the total value of merchandise involved in the activity is less than \$100, provides for the enhancement of that offense under certain conditions, and increases the established threshold amounts of the value of stolen property or service resulting from theft-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in theft-related statutory provisions.

S.B. 393 increases the threshold amounts of the retail value of an item or service or the value of

property, a motor vehicle, a benefit, a service, or pecuniary interest, or amount of credit, or proceeds or a record of a sale, as applicable, involved in the offense, that are used to determine the penalty grade for the following fraud offenses: trademark counterfeiting, false statement to obtain property or credit or in the provision of certain services, hindering secured creditors, fraudulent transfer of a motor vehicle, credit card transaction record laundering, illegal recruitment of an athlete, misapplication of fiduciary property or financial institution property, and securing execution of a document by deception. The bill creates first degree felony and second degree felony fraudulent transfer of a motor vehicle offenses and establishes the threshold amounts of the value of a motor vehicle associated with each such penalty grade. The bill increases the established threshold amounts of value of a property or service involved in fraud-related offenses if the property or service has value that cannot be reasonably ascertained by criteria set forth in fraud-related statutory provisions.

S.B. 393 increases the threshold amounts of the aggregate amount involved in a breach of computer security offense committed with intent to defraud or harm another or alter, damage, or delete property used to determine the penalty grade for such an offense and creates a Class C, Class B, and Class A misdemeanor breach of security offense committed with that intent and establishes the threshold amounts associated with each such penalty grade. The bill increases the threshold amounts of the value of telecommunications service used, diverted, obtained, or attempted to be obtained in the commission of an unauthorized use or theft of telecommunications service offense, as applicable, used to determine the penalty grade for such an offense and creates a Class C misdemeanor for both offenses and establishes the threshold amounts of the telecommunications service value associated with each such penalty grade.

S.B. 393 increases the threshold amounts of the value of funds, value of a claim, the amount of certain Medicaid-related payments, benefits or claims, and value of the use of the thing misused, as applicable, involved in the commission of an offense of money laundering, insurance fraud, Medicaid fraud, and abuse of official capacity by a public servant used to determine the penalty grade for such an offense. The bill increases the established threshold amounts of the value of a good or service that is the subject of a claim under insurance fraud statutory provisions relating to the value of the claim if the good or service has value that cannot be reasonably ascertained by criteria set forth in such provisions.

S.B. 393 amends the Code of Criminal Procedure to include a person charged with committing a Class A misdemeanor graffiti offense among the persons to whom a peace officer is authorized to issue a citation containing notice to appear before a magistrate instead of taking the person before a magistrate.

EFFECTIVE DATE

September 1, 2015.