

# SENATE BILL No. 830

March 25, 1992, Introduced by Senators WELBORN and  
DE GROW and referred to the Committee on Judiciary.

A bill to amend sections 157s, 174, 177, 178, 181, 218,  
219a, 356, 356c, 362a, 377a, 380, 387, and 535 of Act No. 328 of  
the Public Acts of 1931, entitled  
"The Michigan penal code,"  
section 157s as amended by Act No. 276 of the Public Acts of 1987  
and section 356c as added by Act No. 20 of the Public Acts of  
1988, being sections 750.157s, 750.174, 750.177, 750.178,  
750.181, 750.218, 750.219a, 750.356, 750.356c, 750.362a,  
750.377a, 750.380, 750.387, and 750.535 of the Michigan Compiled  
Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 157s, 174, 177, 178, 181, 218, 219a,  
2 356, 356c, 362a, 377a, 380, 387, and 535 of Act No. 328 of the  
3 Public Acts of 1931, section 157s as amended by Act No. 276 of  
4 the Public Acts of 1987 and section 356c as added by Act No. 20

1 of the Public Acts of 1988, being sections 750.157s, 750.174,  
 2 750.177, 750.178, 750.181, 750.218, 750.219a, 750.356, 750.356c,  
 3 750.362a, 750.377a, 750.380, 750.387, and 750.535 of the Michigan  
 4 Compiled Laws, are amended to read as follows:

5       Sec. 157s. A person who, for the purpose of obtaining  
 6 goods, property, services, or anything of value, knowingly and  
 7 with intent to defraud uses 1 or more financial transaction  
 8 devices which have been revoked or canceled by the issuer of the  
 9 device or devices, as distinguished from expired, and notice of  
 10 the revocation or cancellation has been received by the person,  
 11 is guilty of a misdemeanor if the aggregate value of the goods,  
 12 property, services, or anything of value is ~~-\$100.00-~~ \$1,000.00  
 13 or less, and is guilty of a felony, punishable by a fine of not  
 14 more than \$1,000.00, or imprisonment for not more than 1 year, or  
 15 both, if the aggregate value of the goods, property, services, or  
 16 anything of value is more than ~~-\$100.00-~~ \$1,000.00.

17       Sec. 174. (1) ~~Any~~ A person who as the agent, servant or  
 18 employee of another, or as the trustee, bailee, or custodian of  
 19 the property of another, or of any partnership, voluntary associ-  
 20 ation, public or private corporation, or of this state, or of any  
 21 county, city, village, township, or school district within this  
 22 state, ~~shall~~ THAT fraudulently ~~dispose~~ DISPOSES of or  
 23 ~~convert~~ CONVERTS to his OR HER own use, or ~~take or secrete~~  
 24 TAKES OR SECRETES with THE intent to convert to his OR HER own  
 25 use without the consent of his OR HER principal, any money or  
 26 other personal property of his OR HER principal ~~which shall~~  
 27 ~~have~~ THAT HAS come to his OR HER possession or ~~shall be~~ THAT

1 IS under his OR HER charge or control by virtue of his OR HER  
 2 being such AN agent, servant, employee, trustee, bailee, or cus-  
 3 todian, ~~as aforesaid, shall be~~ IS guilty of ~~the crime of~~  
 4 embezzlement, and upon conviction, ~~thereof,~~ if the money or  
 5 personal property ~~so~~ embezzled ~~shall be~~ IS of the value of  
 6 ~~\$100.00~~ \$1,000.00 or under, ~~shall be~~ IS guilty of a  
 7 misdemeanor. ~~if~~ IF the money or personal property ~~so~~  
 8 embezzled ~~be~~ IS of the value of more than ~~\$100.00~~ \$1,000.00,  
 9 ~~such~~ THE person ~~shall be~~ IS guilty of a felony, punishable by  
 10 imprisonment ~~in the state prison~~ FOR not more than 10 years or  
 11 by a fine not exceeding \$5,000.00.

12 (2) In ~~any~~ A prosecution under this section, the failure,  
 13 neglect, or refusal of ~~such~~ THE agent, servant, employee,  
 14 trustee, bailee, or custodian to pay, deliver, or refund to his  
 15 OR HER principal ~~such~~ THE money or property entrusted to his OR  
 16 HER care upon demand shall be prima facie proof of intent to  
 17 embezzle.

18 Sec. 177. ~~Any~~ A person who ~~shall embezzle~~ EMBEZZLES,  
 19 fraudulently ~~remove, conceal or dispose~~ REMOVES, CONCEALS, OR  
 20 DISPOSES of any personal property held by him OR HER subject to  
 21 any chattel mortgage or written instrument intended to operate as  
 22 a chattel mortgage, or any lease or written instrument intended  
 23 to operate as a lease, or any contract to purchase not yet ful-  
 24 filled with intent to injure or defraud the mortgagee, lessor, or  
 25 vendor under ~~such~~ THE contract or any assignee thereof,  
 26 ~~shall,~~ if the property ~~so~~ THAT IS embezzled, removed,  
 27 concealed, or disposed of, is of the value of more than ~~\$100.00~~

1 \$1,000.00, ~~be~~ IS guilty of a felony, punishable by imprisonment  
 2 ~~in the state prison~~ FOR not more than 2 years, or by a fine of  
 3 not more than \$1,000.00. If the property ~~so~~ THAT IS removed,  
 4 concealed, or disposed of is of the value of ~~\$100.00~~ \$1,000.00  
 5 or less, the person ~~so offending shall be~~ IS guilty of a  
 6 misdemeanor.

7       Sec. 178. ~~Any~~ A person who ~~shall~~ fraudulently  
 8 ~~embezzle, remove, conceal or dispose~~ EMBEZZLES, REMOVES, CON-  
 9 CEALS, OR DISPOSES of any personal property ~~which~~ THAT has been  
 10 mortgaged, leased, or purchased under a contract to purchase not  
 11 yet fulfilled by another knowing ~~such~~ THAT THE personal prop-  
 12 erty ~~to have~~ HAS been ~~so~~ mortgaged, leased, or purchased,  
 13 with THE intent to injure or defraud the mortgagee, lessor, or  
 14 vendor under ~~such~~ THE contract, or any assignee thereof,  
 15 ~~shall~~ IS, if the property ~~so~~ THAT IS embezzled, removed,  
 16 concealed, or disposed of, is of the value of more than ~~\$100.00~~  
 17 \$1,000.00, ~~be~~ guilty of a felony, punishable by imprisonment  
 18 ~~in the state prison~~ FOR not more than 2 years or by a fine of  
 19 not more than \$1,000.00. If the property ~~so~~ THAT IS removed,  
 20 concealed, or disposed of is, of the value of ~~\$100.00~~ \$1,000.00  
 21 or less, the person ~~so offending shall be~~ IS guilty of a  
 22 misdemeanor.

23       Sec. 181. (1) ~~Any~~ AN agent, servant, employee, trustee,  
 24 bailee, custodian, attorney-at-law, collector, or other person,  
 25 who, in any manner receives or collects money or any other per-  
 26 sonal property ~~which~~ THAT is partly the property of another and  
 27 partly the property of ~~such~~ THE agent, servant, employee,

1 trustee, bailee, custodian, attorney-at-law, collector, or other  
2 person, and who ~~shall embezzle~~ EMBEZZLES or fraudulently  
3 ~~dispose~~ DISPOSES of or ~~convert~~ CONVERTS to his OR HER own  
4 use, or ~~take or secrete~~ TAKES OR SECRETES with intent to embez-  
5 zle or convert to his OR HER own use, ~~such~~ THE money or per-  
6 sonal property, without the consent of the part owner of ~~such~~  
7 THE money or personal property, ~~shall~~ IS, if the money or per-  
8 sonal property ~~se~~ THAT IS embezzled is of the value of  
9 ~~\$100.00~~ \$1,000.00 or under, ~~be~~ guilty of a misdemeanor. ~~→~~  
10 ~~if~~ IF the money or personal property ~~se~~ embezzled is of the  
11 value of more than ~~\$100.00~~ \$1,000.00, he ~~shall be~~ OR SHE IS  
12 guilty of a felony, punishable by imprisonment ~~in the state~~  
13 ~~prison~~ FOR not more than 10 years or by a fine of not more than  
14 \$5,000.00.

15 (2) In ~~any~~ A prosecution ~~for such crime it shall be~~  
16 UNDER THIS SECTION, IT IS no defense that ~~such~~ THE agent, ser-  
17 vant, employee, trustee, bailee, custodian, attorney-at-law,  
18 collector, or other person was entitled to a compensation out of  
19 ~~such~~ THE money or personal property as compensation for col-  
20 lecting or receiving ~~the same~~ IT for and on behalf of ~~the~~ ITS  
21 owner, ~~thereof~~, but it ~~shall be no~~ IS NOT embezzlement on the  
22 part of ~~such~~ THE agent, servant, employee, trustee, bailee,  
23 custodian, attorney-at-law, collector, or other person to retain  
24 his OR HER reasonable collection fee on the collection or any  
25 other valid interest he OR SHE may have in ~~such~~ THE money or  
26 personal property.

1       (3) In ~~any~~ A prosecution under this section, the failure,  
 2 neglect, or refusal of ~~such~~ THE agent, servant, employee,  
 3 trustee, bailee, custodian, attorney-at-law, collector, or other  
 4 person to pay, deliver, or refund to the proper person ~~such~~ THE  
 5 money or personal property entrusted to his OR HER care, upon  
 6 demand, shall be prima facie proof of intent to embezzle.

7       Sec. 218. ~~Any~~ A person who, with intent to defraud or  
 8 cheat, ~~shall~~ designedly, by color of any false token or writing  
 9 or by any false or bogus check or other written, printed, or  
 10 engraved instrument, by spurious coin or metal in the similitude  
 11 of coin, or by any other false pretense, ~~cause any~~ CAUSES A  
 12 person to grant, convey, assign, demise, lease, or mortgage any  
 13 land or interest in land, or obtain the signature of any person  
 14 to any written instrument, the making ~~whereof~~ OF WHICH would be  
 15 punishable as forgery, or ~~obtain~~ OBTAINS from ~~any~~ A person  
 16 any money or personal property or the use of any instrument,  
 17 facility or article, or other valuable thing or service, or by  
 18 means of any false weights or measures ~~obtain~~ OBTAINS a larger  
 19 amount or quantity of property than was bargained for, or by  
 20 means of any false weights or measures ~~sell~~ SELLS or ~~dispose~~  
 21 DISPOSES of a less amount or quantity of property than was bar-  
 22 gained for, if ~~such~~ THE land or interest in land, money, per-  
 23 sonal property, use of ~~such~~ THE instrument, facility or arti-  
 24 cle, valuable thing, service, larger amount obtained or less  
 25 amount disposed of, ~~shall be~~ IS of the value of ~~\$100.00~~  
 26 \$1,000.00 or less, ~~shall be~~ IS guilty of a misdemeanor. ~~and~~  
 27 ~~if such~~ IF THE land, interest in land, money, personal property,

1 use of ~~such~~ THE instrument, facility or article, valuable  
2 thing, service, larger amount obtained or less amount disposed of  
3 ~~shall be~~ IS of the value of more than ~~-\$100.00-~~ \$1,000.00,  
4 ~~such~~ THE person ~~shall be~~ IS guilty of a felony, punishable by  
5 imprisonment ~~in the state prison~~ FOR not more than 10 years or  
6 by a fine of not more than \$5,000.00.

7       Sec. 219a. ~~Any~~ A person who knowingly obtains or attempts  
8 to obtain telephone service or the transmission of a telephone  
9 message by the use of any false or fictitious telephone credit  
10 number or telephone number, or by the use of any telephone credit  
11 number or telephone number of another without the authority of  
12 the person to whom such credit number or telephone number was  
13 issued, is guilty of a misdemeanor. If the total value of tele-  
14 phone service obtained in a manner prohibited by this section  
15 exceeds ~~-\$100.00-~~ \$1,000.00, the ~~offense shall be prosecuted as~~  
16 PERSON IS GUILTY OF a felony.

17       Sec. 356. ~~Any~~ A person who ~~shall commit~~ COMMITS the  
18 offense of larceny, by stealing, of the property of another, any  
19 money, goods or chattels, or any bank note, bank bill, bond,  
20 promissory note, due bill, bill of exchange or other bill, draft,  
21 order or certificate, or any book of accounts for or concerning  
22 money or goods due or to become due, or to be delivered, or any  
23 deed or writing containing a conveyance of land, or any other  
24 valuable contract in force, or any receipt, release or defea-  
25 sance, or any writ, process or public record, if the property  
26 stolen ~~exceed~~ IS OF the value of ~~-\$100.00 shall be~~ MORE THAN  
27 \$1,000.00, IS guilty of a felony, punishable by imprisonment ~~in~~

1 ~~the state prison~~ FOR not more than 5 years or by fine of not  
2 more than \$2,500.00. If the property stolen ~~shall be~~ IS of the  
3 value of ~~-\$100.00~~ \$1,000.00 or less, ~~such~~ THE person ~~shall~~  
4 ~~be~~ IS guilty of a misdemeanor.

5       Sec. 356c. (1) A person who does any of the following in a  
6 store or in its immediate vicinity is guilty of retail fraud in  
7 the first degree, a felony punishable by imprisonment for not  
8 more than 2 years, or a fine of not more than \$1,000.00, or  
9 both:

10       (a) While a store is open to the public, alters, transfers,  
11 removes and replaces, conceals, or otherwise misrepresents the  
12 price at which property is offered for sale, with the intent not  
13 to pay for the property or to pay less than the price at which  
14 the property is offered for sale, if the resulting difference in  
15 price is more than ~~-\$100.00~~ \$1,000.00.

16       (b) While a store is open to the public, steals property of  
17 the store that is offered for sale at a price of more than  
18 ~~-\$100.00~~ \$1,000.00.

19       (c) With intent to defraud, obtains or attempts to obtain  
20 money or property from the store as a refund or exchange for  
21 property that was not paid for and belongs to the store, if the  
22 amount of money, or the value of the property, obtained or  
23 attempted to be obtained is more than ~~-\$100.00~~ \$1,000.00.

24       (2) A person who violates section 356d and has 1 or more  
25 prior convictions under this section, section 218, 356, 356d, or  
26 360, or a local ordinance substantially corresponding to this



1 section or section 218, 356, 356d, or 360 is guilty of retail  
2 fraud in the first degree.

3 (3) A person who commits the crime of retail fraud in the  
4 first degree shall not be prosecuted under the felony provision  
5 of section 356, or under section 218 or 360.

6 Sec. 362a. ~~Any~~ A person to whom a motor vehicle, trailer,  
7 or other tangible property is delivered on a rental or lease  
8 basis under any agreement in writing providing for its return to  
9 a particular place at a particular time who refuses or ~~wilfully~~  
10 WILLFULLY neglects to return ~~such~~ THE vehicle, trailer, or  
11 other tangible property, after the expiration of the time stated  
12 in a notice in writing proved to have been duly mailed by regis-  
13 tered or certified mail addressed to the last known address of  
14 the person who rented or leased the motor vehicle, trailer, or  
15 other tangible property, and with intent to defraud the lessor,  
16 is guilty of larceny. If the vehicle, trailer, or other tangible  
17 property exceeds the value of ~~\$100.00~~ \$1,000.00, he ~~shall be~~  
18 OR SHE IS guilty of a felony punishable by imprisonment for not  
19 more than 2 years, or by a fine of not more than \$1,000.00, or  
20 both. If the vehicle, trailer, or other tangible property is of  
21 the value of ~~\$100.00~~ \$1,000.00 or less, he OR SHE shall be  
22 guilty of a misdemeanor.

23 Sec. 377a. ~~Any~~ A person who ~~shall wilfully~~ WILLFULLY  
24 and maliciously ~~destroy or injure~~ DESTROYS OR INJURES the per-  
25 sonal property of another, by any means not particularly men-  
26 tioned or described in ~~the preceding~~ section 377, if the damage  
27 resulting from ~~such~~ THE injury ~~shall exceed \$100.00, shall be~~

1 EXCEEDS \$1,000.00, IS guilty of a felony. If the damage ~~done~~  
2 ~~shall be \$100.00~~ RESULTING FROM THE INJURY IS \$1,000.00 or less,  
3 ~~such~~ THE person ~~shall be~~ IS guilty of a misdemeanor.

4 Sec. 380. ~~Any~~ A person who ~~shall wilfully~~ WILLFULLY and  
5 maliciously ~~destroy or injure any~~ DESTROYS OR INJURES A house,  
6 barn, or other building of another, or ~~the~~ ITS appurtenances,  
7 ~~thereof,~~ if the damage resulting from ~~such~~ THE injury ~~shall~~  
8 ~~exceed \$100.00, shall be~~ IS GREATER THAN \$1,000.00, IS guilty of  
9 a felony. If the damage ~~done shall be \$100.00~~ RESULTING FROM  
10 THE INJURY IS \$1,000.00 or less, he ~~shall be~~ OR SHE IS guilty  
11 of a misdemeanor.

12 Sec. 387. (1) ~~Any~~ A person, other than the burial right  
13 owner or his OR HER representative, heir at law, or a person  
14 having care, custody, or control of a cemetery by virtue of law,  
15 contract, or other legal right, who ~~shall wilfully destroy,~~  
16 ~~mutilate, deface, injure, or remove~~ WILLFULLY DESTROYS, MUTI-  
17 LATES, DEFACES, INJURES, OR REMOVES any tomb, monument, grave-  
18 stone, or other structure or thing placed or designed for a memo-  
19 rial of the dead, or any fence, railing, curb, or other thing  
20 intended for the protection or for the ornament of any tomb, mon-  
21 ument, gravestone, or other structure ~~mentioned~~ DESCRIBED in  
22 this subsection, or of any enclosure for the burial of the dead,  
23 or who ~~shall wilfully destroy, mutilate, remove, cut, break, or~~  
24 ~~injure~~ WILLFULLY DESTROYS, MUTILATES, REMOVES, CUTS, BREAKS, OR  
25 INJURES any tree, shrub, or plant, placed or being within any  
26 such enclosure, is guilty of a misdemeanor. Prosecution under  
27 this subsection may commence upon complaint by the burial right

1 owner or his OR HER representative, heir at law, or person having  
2 care, custody, or control of a cemetery, tomb, monument, grave-  
3 stone, or other structure or thing placed or designed for a memo-  
4 rial of the dead, or any fence, railing, curb, or other thing  
5 intended for the protection or for the ornament of any tomb, mon-  
6 ument, gravestone, or other structure ~~mentioned~~ DESCRIBED in  
7 this subsection, or of any enclosure for the burial of the dead,  
8 or tree, shrub, or plant.

9 (2) A person is guilty of a felony punishable by imprison-  
10 ment for not more than 5 years or by a fine of not more than  
11 \$2,500.00, or both, if the person does either of the following:

12 (a) Does any act described in subsection (1) which causes  
13 damage in excess of ~~-\$100.00-~~ \$1,000.00.

14 (b) Does any act described in subsection (1) which is  
15 directed against 2 or more separate burial rights or places in  
16 whatever form for tombs or for the memorial of the dead.

17 Sec. 535. (1) A person who buys, receives, possesses, con-  
18 ceals, or aids in the concealment of stolen, embezzled, or con-  
19 verted money, goods, or property knowing the money, goods, or  
20 property to be stolen, embezzled, or converted, if the property  
21 purchased, received, possessed, or concealed exceeds the value of  
22 ~~-\$100.00-~~ \$1,000.00, is guilty of a felony, punishable by impris-  
23 onment for not more than 5 years, or by a fine of not more than  
24 \$2,500.00, or both. If the property purchased, received, pos-  
25 sessed, or concealed is of a value of ~~-\$100.00-~~ \$1,000.00 or  
26 less, the person is guilty of a misdemeanor. On a third or  
27 subsequent conviction under this section the person is guilty of

1 a felony, punishable by imprisonment for not more than 5 years,  
2 or by a fine of not more than \$2,500.00, or both, although the  
3 value of the property purchased, received, possessed, or con-  
4 cealed does not exceed ~~-\$100.00-~~ \$1,000.00.

5       (2) A person who is a dealer in or collector of merchandise  
6 or personal property, or the agent, employee, or representative  
7 of a dealer or collector who fails to make reasonable inquiry  
8 that the person selling or delivering the stolen, embezzled, or  
9 converted property to the dealer or collector has a legal right  
10 to do so or who buys or receives stolen, embezzled, or converted  
11 property which has a registration, serial, or other identifying  
12 number altered or obliterated on an external surface of the prop-  
13 erty, shall be presumed to have bought or received the property  
14 knowing the property to be stolen, embezzled, or converted. This  
15 presumption may be rebutted by proof.