



HOUSE BILL No. 4198

January 30, 1995, Introduced by Reps. Nye, Profit, Bush and Hill and referred to the Committee on Judiciary and Civil Rights.

A bill to amend sections 131, 157s, 157w, 174, 177, 178, 181, 218, and 219a of Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

section 131 as amended by Act No. 277 of the Public Acts of 1984 and section 157s as amended and section 157w as added by Act No. 276 of the Public Acts of 1987, being sections 750.131, 750.157s, 750.157w, 750.174, 750.177, 750.178, 750.181, 750.218, and 750.219a of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 131, 157s, 157w, 174, 177, 178, 181,
2 218, and 219a of Act No. 328 of the Public Acts of 1931, section
3 131 as amended by Act No. 277 of the Public Acts of 1984 and
4 section 157s as amended and section 157w as added by Act No. 276
5 of the Public Acts of 1987, being sections 750.131, 750.157s,

1 750.157w, 750.174, 750.177, 750.178, and 750.181, 750.218, and
2 750.219a of the Michigan Compiled Laws, are amended to read as
3 follows:

4 Sec. 131. (1) A person shall not ~~, with intent to~~
5 ~~defraud,~~ make, draw, utter, or deliver any check, draft, or
6 order for the payment of money, to apply on account or otherwise,
7 upon any bank or other depository ~~—~~ WITH INTENT TO DEFRAUD AND
8 knowing at the time of the making, drawing, uttering, or deliver-
9 ing ~~—~~ that the maker or drawer does not have sufficient funds
10 in or credit with the bank or other depository ~~— for the payment~~
11 ~~of~~ TO PAY the check, draft, or order ~~—~~ in full ~~—~~ upon its
12 presentation.

13 (2) A person shall not ~~, with the intent to defraud,~~ make,
14 draw, utter, or deliver any check, draft, or order for the pay-
15 ment of money, to apply on account or otherwise, upon any bank or
16 other depository ~~— unless~~ WITH INTENT TO DEFRAUD IF the person
17 ~~has~~ DOES NOT HAVE sufficient funds for the payment of the
18 check, draft, or order when presentation for payment is made to
19 the drawee. ~~— except~~ THIS SUBSECTION DOES NOT APPLY if the lack
20 of funds is due to garnishment, attachment, levy, or other lawful
21 cause ~~—~~ and that fact was not known to the person ~~who~~ WHEN
22 THE PERSON made, drew, uttered, or delivered the check, draft, or
23 order. ~~at the time of the making, drawing, uttering, or~~
24 ~~delivering.~~

25 (3) A person who violates this section is guilty of a crime
26 as follows:

1 (a) If the amount payable in the check, draft, or order is
2 ~~\$50.00~~ or less THAN \$100.00, as follows:

3 (i) For a first offense, a misdemeanor ~~—~~ punishable by
4 imprisonment for not more than 93 days ~~—~~ or a fine of not more
5 than ~~\$100.00~~ \$500.00, or both.

6 ~~(ii) For a second offense which is charged as a second~~
7 ~~offense, a misdemeanor, punishable by imprisonment for not more~~
8 ~~than 6 months, or a fine of not more than \$250.00, or both.~~

9 (ii) ~~(iii)~~ For a ~~third~~ SECOND offense, ~~which is charged~~
10 ~~as a third offense,~~ a misdemeanor ~~—~~ punishable by imprisonment
11 for not more than 1 year ~~—~~ or a fine of not more than ~~\$500.00~~
12 \$1,000.00, or both.

13 (iii) ~~(iv)~~ For a ~~fourth~~ THIRD or subsequent offense
14 ~~which is~~ charged as a ~~fourth~~ THIRD or subsequent offense, a
15 felony ~~—~~ punishable by imprisonment for not more than 13 months
16 ~~—~~ or a fine of not more than ~~\$500.00~~ \$2,000.00, or both.

17 (b) If the amount payable in the check, draft, or order is
18 ~~more than \$50.00~~ \$100.00 OR MORE but less than ~~\$200.00~~
19 \$500.00, as follows:

20 (i) For a first or second offense, a misdemeanor ~~—~~ punish-
21 able by imprisonment for not more than 1 year ~~—~~ or a fine of
22 not more than ~~\$500.00~~ \$1,000.00 OR 3 TIMES THE AMOUNT PAYABLE,
23 WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE.

24 (ii) For a third or subsequent offense ~~which is~~ charged as
25 a third or subsequent offense, a felony ~~—~~ punishable by impris-
26 onment for not more than 13 months ~~—~~ or a fine of not more than
27 ~~\$500.00~~ \$2,000.00, or both.

1 (c) If the amount payable in the check, draft, or order is
2 ~~\$200.00~~ \$500.00 or more, a felony ~~—~~ punishable by imprison-
3 ment for not more than 13 months ~~—~~ or ~~by~~ a fine of not more
4 than ~~\$500.00~~ \$2,000.00 OR 3 TIMES THE AMOUNT PAYABLE, WHICHEVER
5 IS GREATER, or both IMPRISONMENT AND A FINE.

6 (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
7 SENTENCE UNDER SUBSECTION (3)(A)(ii) BASED UPON THE DEFENDANT
8 HAVING A PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE
9 ON THE COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
10 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
11 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
12 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
13 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
14 TO, 1 OR MORE OF THE FOLLOWING:

15 (A) A COPY OF THE JUDGMENT OF CONVICTION.

16 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
17 SENTENCING.

18 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

19 (D) THE DEFENDANT'S STATEMENT.

20 Sec. 157s. (1) A person who, for the purpose of obtaining
21 goods, property, services, or anything of value, knowingly and
22 with intent to defraud uses 1 or more financial transaction
23 devices ~~which~~ THAT have been revoked or canceled by the issuer
24 of the device or devices, as distinguished from expired, and HAS
25 RECEIVED notice of the revocation or cancellation ~~has been~~
26 ~~received by the person,~~ is guilty of a ~~misdemeanor if~~ CRIME AS
27 FOLLOWS:

1 (A) IF the aggregate value of the goods, property, services,
2 or anything of value is LESS THAN \$100.00, ~~or less, and is~~
3 ~~guilty of a felony, punishable by a fine of not more than~~
4 ~~\$1,000.00, or imprisonment for not more than 1 year, or both, if~~
5 AS FOLLOWS:

6 (i) FOR A FIRST OFFENSE, A MISDEMEANOR PUNISHABLE BY IMPRIS-
7 ONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
8 \$500.00, OR BOTH.

9 (ii) FOR A SECOND OFFENSE, A MISDEMEANOR PUNISHABLE BY
10 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
11 \$1,000.00, OR BOTH.

12 (iii) FOR A THIRD OR SUBSEQUENT OFFENSE CHARGED AS A THIRD
13 OR SUBSEQUENT OFFENSE, A FELONY PUNISHABLE BY IMPRISONMENT FOR
14 NOT MORE THAN 13 MONTHS OR A FINE OF NOT MORE THAN \$2,000.00, OR
15 BOTH.

16 (B) IF the aggregate value of the goods, property, services,
17 or anything of value is ~~more than~~ \$100.00 OR MORE BUT LESS THAN
18 \$500.00, AS FOLLOWS:

19 (i) FOR A FIRST OR SECOND OFFENSE, A MISDEMEANOR PUNISHABLE
20 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE
21 THAN \$1,000.00 OR 3 TIMES THE AGGREGATE VALUE OF THE GOODS, PROP-
22 erty, services, or anything of value, whichever is greater, or
23 BOTH IMPRISONMENT AND A FINE.

24 (ii) FOR A THIRD OR SUBSEQUENT OFFENSE CHARGED AS A THIRD OR
25 SUBSEQUENT OFFENSE, A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
26 MORE THAN 13 MONTHS OR A FINE OF NOT MORE THAN \$2,000.00, OR
27 BOTH.

1 (C) IF THE AGGREGATE VALUE OF THE GOODS, PROPERTY, SERVICES,
2 OR ANYTHING OF VALUE IS \$500.00 OR MORE, A FELONY PUNISHABLE BY
3 IMPRISONMENT FOR NOT MORE THAN 13 MONTHS OR A FINE OF NOT MORE
4 THAN \$2,000.00 OR 3 TIMES THE AGGREGATE VALUE OF THE GOODS, PROP-
5 ERTY, SERVICES, OR ANYTHING OF VALUE, WHICHEVER IS GREATER, OR
6 BOTH IMPRISONMENT AND A FINE.

7 (2) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
8 SENTENCE UNDER SUBSECTION (1)(A)(ii) BASED UPON THE DEFENDANT
9 HAVING A PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE
10 ON THE COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
11 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
12 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
13 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
14 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
15 TO, 1 OR MORE OF THE FOLLOWING:

16 (A) A COPY OF THE JUDGMENT OF CONVICTION.

17 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
18 SENTENCING.

19 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

20 (D) THE DEFENDANT'S STATEMENT.

21 Sec. 157w. (1) A person who ~~—~~ knowingly and with intent
22 to defraud ~~—~~ uses a financial transaction device to withdraw or
23 transfer funds from a deposit account in violation of the con-
24 tractual limitations imposed on the amount or frequency of with-
25 drawals or transfers ~~—~~ or in an amount ~~in excess of~~ EXCEEDING
26 the funds then on deposit in the account ~~—~~ is guilty of a CRIME
27 AS FOLLOWS:

1 (A) A misdemeanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE
2 THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE
3 AMOUNT OF FUNDS WITHDRAWN OR TRANSFERRED, WHICHEVER IS GREATER,
4 OR BOTH IMPRISONMENT AND A FINE, if the amount of the funds with-
5 drawn or transferred is ~~\$500.00 or less, and is guilty of a~~
6 ~~felony~~ LESS THAN \$200.00.

7 (B) A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE
8 THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE
9 AMOUNT OF FUNDS WITHDRAWN OR TRANSFERRED, WHICHEVER IS GREATER,
10 OR BOTH IMPRISONMENT AND A FINE, if ~~the~~ ANY OF THE FOLLOWING
11 APPLY:

12 (i) THE amount of the funds withdrawn or transferred is
13 ~~more than \$500.00~~ \$200.00 OR MORE BUT LESS THAN \$1,000.00.

14 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS A PRIOR
15 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
16 UNDER THAT SUBDIVISION.

17 (C) A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5
18 YEARS OR A FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT
19 OF FUNDS WITHDRAWN OR TRANSFERRED, WHICHEVER IS GREATER, OR BOTH
20 IMPRISONMENT AND A FINE, IF ANY OF THE FOLLOWING APPLY:

21 (i) THE AMOUNT OF THE FUNDS WITHDRAWN OR TRANSFERRED IS
22 \$1,000.00 OR MORE BUT LESS THAN \$20,000.00.

23 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 2 OR MORE
24 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
25 OFFENSE UNDER THAT SUBDIVISION.

1 (iii) THE PERSON VIOLATES SUBDIVISION (B) AND HAS A PRIOR
2 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
3 UNDER THAT SUBDIVISION.

4 (D) A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10
5 YEARS OR A FINE OF NOT MORE THAN 3 TIMES THE AMOUNT OF FUNDS
6 WITHDRAWN OR TRANSFERRED, OR BOTH, IF THE AMOUNT OF FUNDS WITH-
7 DRAWN OR TRANSFERRED IS \$20,000.00 OR MORE.

8 (2) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
9 SENTENCE UNDER SUBSECTION (1)(B) BASED UPON THE DEFENDANT HAVING
10 A PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE
11 COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
12 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
13 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
14 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
15 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
16 TO, 1 OR MORE OF THE FOLLOWING:

17 (A) A COPY OF THE JUDGMENT OF CONVICTION.

18 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
19 SENTENCING.

20 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

21 (D) THE DEFENDANT'S STATEMENT.

22 Sec. 174. (1) ~~Any~~ A person who as the agent, servant, or
23 employee of another PERSON, GOVERNMENTAL ENTITY WITHIN THIS
24 STATE, OR OTHER LEGAL ENTITY or WHO as the trustee, bailee, or
25 custodian of the property of another PERSON, ~~or of any partner-~~
26 ~~ship, voluntary association, public or private corporation, or of~~
27 ~~this state, or of any county, city, village, township or school~~

1 ~~district~~ GOVERNMENTAL ENTITY within this state, ~~shall~~ OR OTHER
 2 LEGAL ENTITY fraudulently ~~dispose~~ DISPOSES of or ~~convert~~
 3 CONVERTS to his OR HER own use, or ~~take or secrete~~ TAKES OR
 4 SECRETES with THE intent to convert to his OR HER own use without
 5 the consent of his OR HER principal, any money or other personal
 6 property of his OR HER principal ~~which shall have~~ THAT HAS come
 7 to ~~his~~ THAT PERSON'S possession or ~~shall be~~ THAT IS under his
 8 OR HER charge or control by virtue of his OR HER being ~~such~~ AN
 9 agent, servant, employee, trustee, bailee, or custodian, ~~as~~
 10 ~~aforsaid, shall be~~ IS guilty of ~~the crime of~~ embezzlement. ~~7~~
 11 ~~and upon conviction thereof, if~~

12 (2) IF the money or personal property ~~so~~ embezzled ~~shall~~
 13 ~~be of the~~ HAS A value of ~~\$100.00 or under~~ LESS THAN \$200.00,
 14 ~~shall be~~ THE PERSON IS guilty of a misdemeanor ~~7, if~~
 15 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF
 16 NOT MORE THAN \$500.00 OR 3 TIMES THE VALUE OF THE MONEY OR PROP-
 17 ERTY EMBEZZLED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 18 FINE.

19 (3) IF THE MONEY OR PERSONAL PROPERTY EMBEZZLED HAS A VALUE
 20 OF \$200.00 OR MORE BUT LESS THAN \$1,000.00, THE PERSON IS GUILTY
 21 OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1
 22 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF
 23 THE MONEY OR PROPERTY EMBEZZLED, WHICHEVER IS GREATER, OR BOTH
 24 IMPRISONMENT AND A FINE.

25 (4) IF the money or personal property ~~so~~ embezzled ~~be of~~
 26 ~~the~~ HAS A value of \$1,000.00 OR more ~~than \$100.00, such~~ BUT
 27 LESS THAN \$20,000.00, THE person ~~shall be~~ IS guilty of a felony

1 ~~/~~ punishable by imprisonment ~~in the state prison~~ FOR not more
 2 than ~~+0~~ 5 years or ~~by~~ a fine OF not ~~exceeding \$5,000.00~~
 3 MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE MONEY OR PROP-
 4 ERTY EMBEZZLED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 5 FINE.

6 (5) IF THE MONEY OR PERSONAL PROPERTY EMBEZZLED HAS A VALUE
 7 OF \$20,000.00 OR MORE, THE PERSON IS GUILTY OF A FELONY PUNISH-
 8 ABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A FINE OF NOT
 9 MORE THAN 3 TIMES THE VALUE OF THE MONEY OR PROPERTY EMBEZZLED,
 10 OR BOTH.

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

17 Sec. 177. (1) ~~Any~~ A person ~~who~~ shall NOT embezzle ~~/~~
 18 OR fraudulently remove, conceal, or dispose of any personal prop-
 19 erty held by him OR HER subject to ~~any~~ A chattel mortgage or
 20 written instrument intended to operate as a chattel mortgage, ~~or~~
 21 ~~any~~ A lease or written instrument intended to operate as a
 22 lease, or ~~any~~ A contract to purchase not yet fulfilled with
 23 intent to injure or defraud the mortgagee, lessor, or vendor
 24 under ~~such~~ THE contract or any assignee ~~thereof, shall, if~~ OF
 25 THE MORTGAGEE, LESSOR, OR VENDOR.

26 (2) IF the property ~~so~~ embezzled, removed, concealed, or
 27 disposed of ~~/ is of the~~ HAS A value of ~~more than \$100.00~~

1 \$20,000.00 OR MORE, ~~be~~ THE PERSON IS guilty of a felony ~~—~~
 2 punishable by imprisonment ~~in the state prison~~ FOR not more
 3 than ~~2~~ 10 years ~~—~~ or ~~by~~ a fine of not more than ~~\$1,000.00~~
 4 3 TIMES THE VALUE OF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED,
 5 OR DISPOSED OF, OR BOTH.

6 (3) IF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED, OR DIS-
 7 POSED OF HAS A VALUE OF \$1,000.00 OR MORE BUT LESS THAN
 8 \$20,000.00, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
 9 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
 10 \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY EMBEZZLED,
 11 REMOVED, CONCEALED, OR DISPOSED OF, WHICHEVER IS GREATER, OR BOTH
 12 IMPRISONMENT AND A FINE.

13 (4) IF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED, OR DIS-
 14 POSED OF HAS A VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00,
 15 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
 16 FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR
 17 3 TIMES THE VALUE OF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED,
 18 OR DISPOSED OF, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 19 FINE.

20 (5) If the property ~~so~~ EMBEZZLED, removed, concealed, or
 21 disposed of ~~is of the~~ HAS A value of ~~\$100.00 or~~ less THAN
 22 \$200.00, the person ~~so offending shall be~~ IS guilty of a misde-
 23 meanor PUNISHABLE BY A FINE OF NOT MORE THAN 93 DAYS OR A FINE OF
 24 NOT MORE THAN \$500.00 OR 3 TIMES THE VALUE OF THE PROPERTY EMBEZZ-
 25 ZLED, REMOVED, CONCEALED, OR DISPOSED OF, WHICHEVER IS GREATER,
 26 OR BOTH IMPRISONMENT AND A FINE.

1 Sec. 178. (1) ~~Any~~ A person ~~who~~ shall NOT EMBEZZLE OR
2 fraudulently ~~embezzle,~~ remove, conceal, or dispose of any
3 personal property ~~which~~ THAT has been mortgaged, leased, or
4 purchased under a contract to purchase not yet fulfilled by
5 another PERSON knowing ~~such~~ THE personal property ~~to have~~ HAS
6 been ~~so~~ mortgaged, leased, or purchased ~~,~~ AND with THE intent
7 to injure or defraud the mortgagee, lessor, or vendor under
8 ~~such~~ THE contract, or any assignee ~~thereof, shall, if~~ OF THE
9 MORTGAGEE, LESSOR, OR VENDOR.

10 (2) IF the property ~~so~~ embezzled, removed, concealed, or
11 disposed of ~~, is of the~~ HAS A value of \$20,000.00 OR more,
12 ~~than \$100.00, be~~ THE PERSON IS guilty of a felony ~~,~~ punish-
13 able by imprisonment ~~in the state prison~~ FOR not more than ~~2~~
14 10 years or by a fine of not more than ~~\$1,000.00~~ 3 TIMES THE
15 VALUE OF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED, OR DISPOSED
16 OF, OR BOTH.

17 (3) IF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED, OR DIS-
18 POSED OF HAS A VALUE OF \$1,000.00 OR MORE BUT LESS THAN
19 \$20,000.00, THE PERSON IS GUILTY OF A FELONY PUNISHABLE BY
20 IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN
21 \$10,000.00 OR 3 TIMES THE VALUE OF THE PROPERTY EMBEZZLED,
22 REMOVED, CONCEALED, OR DISPOSED OF, WHICHEVER IS GREATER, OR BOTH,
23 IMPRISONMENT AND A FINE.

24 (4) IF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED, OR DIS-
25 POSED OF HAS A VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00,
26 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
27 FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR

1 3 TIMES THE VALUE OF THE PROPERTY EMBEZZLED, REMOVED, CONCEALED,
 2 OR DISPOSED OF, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
 3 FINE.

4 (5) If the property ~~so~~ EMBEZZLED, removed, concealed, or
 5 disposed of ~~is of the~~ HAS A value of ~~\$100.00 or~~ less THAN
 6 \$200.00, the person ~~so offending shall be~~ IS guilty of a misde-
 7 meanor PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A
 8 FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE VALUE OF THE PROP-
 9 ERTY EMBEZZLED, REMOVED, CONCEALED, OR DISPOSED OF, WHICHEVER IS
 10 GREATER, OR BOTH IMPRISONMENT AND A FINE.

11 Sec. 181. (1) ~~Any~~ AN agent, servant, employee, trustee,
 12 bailee, custodian, attorney-at-law, collector, or other person
 13 ~~,~~ who ~~, in any manner~~ receives or collects IN ANY MANNER
 14 money or ~~any~~ other personal property ~~which~~ THAT is partly the
 15 property of another PERSON and partly the property of ~~such~~ THE
 16 agent, servant, employee, trustee, bailee, custodian,
 17 attorney-at-law, collector, or other person ~~, and who~~ shall NOT
 18 embezzle, ~~or~~ fraudulently dispose of, ~~or~~ convert to his OR
 19 HER own use, or take or secrete with intent to embezzle or con-
 20 vert to his OR HER own use ~~, such~~ THE money or personal prop-
 21 erty ~~,~~ without the consent of the part owner of ~~such~~ THE
 22 money or personal property. ~~, shall, if~~

23 (2) IF the money or personal property ~~so~~ embezzled, ~~is of~~
 24 ~~the~~ DISPOSED OF, CONVERTED, TAKEN, OR SECRETED HAS A value of
 25 ~~\$100.00 or under, be~~ LESS THAN \$200.00, THE PERSON IS guilty of
 26 a misdemeanor ~~, if~~ PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN
 27 93 DAYS OR A FINE OF NOT MORE THAN \$500.00 OR 3 TIMES THE VALUE

1 OF THE MONEY OR PROPERTY EMBEZZLED, DISPOSED OF, CONVERTED,
2 TAKEN, OR SECRETED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
3 AND A FINE.

4 (3) IF THE MONEY OR PERSONAL PROPERTY EMBEZZLED, DISPOSED
5 OF, CONVERTED, TAKEN, OR SECRETED HAS A VALUE OF \$200.00 OR MORE
6 BUT LESS THAN \$1,000.00, THE PERSON IS GUILTY OF A MISDEMEANOR
7 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF
8 NOT MORE THAN \$2,000.00 OR 3 TIMES THE VALUE OF THE MONEY OR
9 PROPERTY EMBEZZLED, DISPOSED OF, CONVERTED, TAKEN, OR SECRETED,
10 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

11 (4) IF THE MONEY OR PERSONAL PROPERTY EMBEZZLED, DISPOSED
12 OF, CONVERTED, TAKEN, OR SECRETED HAS A VALUE OF \$1,000.00 OR
13 MORE BUT LESS THAN \$20,000.00, THE PERSON IS GUILTY OF A FELONY
14 PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A FINE OF
15 NOT MORE THAN \$10,000.00 OR 3 TIMES THE VALUE OF THE MONEY OR
16 PROPERTY EMBEZZLED, DISPOSED OF, CONVERTED, TAKEN, OR SECRETED,
17 WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE.

18 (5) IF the money or personal property ~~so~~ embezzled, ~~is of~~
19 ~~the~~ DISPOSED OF, CONVERTED, TAKEN, OR SECRETED HAS A value of
20 \$20,000.00 OR more, ~~than \$100.00,~~ he ~~shall be~~ OR SHE IS
21 guilty of a felony ~~—~~ punishable by imprisonment ~~in the state~~
22 ~~prison~~ FOR not more than 10 years or ~~by~~ a fine of not more
23 than ~~\$5,000.00~~ 3 TIMES THE VALUE OF THE MONEY OR PROPERTY
24 EMBEZZLED, DISPOSED OF, CONVERTED, TAKEN, OR SECRETED, OR BOTH.

25 (6) In ~~any~~ A prosecution ~~for such crime it shall be no~~
26 UNDER THIS SECTION, IT IS NOT A defense that ~~such~~ THE agent,
27 servant, employee, trustee, bailee, custodian, attorney-at-law,

1 collector, or other person was entitled to a compensation out of
 2 ~~such~~ THE money or personal property as compensation for col-
 3 lecting or receiving ~~the same~~ IT for ~~and on behalf of the~~ ITS
 4 owner, ~~thereof,~~ but it ~~shall be no~~ IS NOT embezzlement ~~on~~
 5 ~~the part of such~~ BY THE agent, servant, employee, trustee,
 6 bailee, custodian, attorney-at-law, collector, or other person to
 7 retain his OR HER reasonable collection fee on the collection or
 8 any other valid interest he ~~may have~~ OR SHE HAS in ~~such~~ THE
 9 money or personal property.

10 (7) In ~~any~~ A prosecution under this section, the failure,
 11 neglect, or refusal of ~~such~~ THE agent, servant, employee,
 12 trustee, bailee, custodian, attorney-at-law, collector, or other
 13 person to pay, deliver, or refund to the proper person ~~such~~ THE
 14 money or personal property entrusted to his OR HER care, upon
 15 demand, ~~shall be~~ IS prima facie proof of intent to embezzle.

16 Sec. 218. (1) ~~Any~~ A person who, with intent to defraud or
 17 cheat ~~, shall designedly,~~ AND by color of ~~any~~ A false token
 18 or writing, ~~or~~ by ~~any~~ A false or bogus check or other writ-
 19 ten, printed, or engraved instrument, by ~~spurious~~ COUNTERFEIT
 20 coin or metal ~~in the similitude of~~ THAT IS INTENDED TO SIMULATE
 21 A coin, or by any other false pretense ~~, cause any~~ DOES 1 OR
 22 MORE OF THE FOLLOWING IS GUILTY OF A CRIME PUNISHABLE AS PROVIDED
 23 IN THIS SECTION:

24 (A) CAUSES A person to grant, convey, assign, demise, lease,
 25 or mortgage ~~any~~ land or AN interest in land. ~~, or obtain the~~

1 (B) OBTAINS A PERSON'S signature ~~of any person to any~~ ON A
2 FORGED written instrument. ~~, the making whereof would be~~
3 ~~punishable as forgery, or obtain~~

4 (C) OBTAINS from ~~any~~ A person any money or personal prop-
5 erty or the use of any instrument, facility, ~~or~~ article, or
6 other valuable thing or service. ~~, or by~~

7 (D) BY means of ~~any false weights or measures obtain~~ A
8 FALSE WEIGHT OR MEASURE OBTAINS a larger amount or quantity of
9 property than was bargained for. ~~, or by~~

10 (E) BY means of ~~any false weights or measures sell or~~
11 ~~dispose~~ A FALSE WEIGHT OR MEASURE SELLS OR DISPOSES of a ~~less~~
12 SMALLER amount or quantity of property than was bargained for.
13 ~~, if such~~

14 (2) IF THE land, ~~or~~ interest in land, money, personal
15 property, use of ~~such~~ THE instrument, facility, ~~or~~ article,
16 OR valuable thing, service, larger amount obtained, or ~~less~~
17 SMALLER amount SOLD OR disposed of ~~, shall be of the~~ HAS A
18 value of ~~-\$100.00 or~~ less THAN \$200.00, ~~shall be~~ THE PERSON IS
19 guilty of a misdemeanor ~~, and if such~~ PUNISHABLE BY IMPRISON-
20 MENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN \$500.00
21 OR 3 TIMES THE VALUE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT
22 AND A FINE.

23 (3) IF THE LAND, INTEREST IN LAND, MONEY, PERSONAL PROPERTY,
24 USE OF THE INSTRUMENT, FACILITY, ARTICLE, OR VALUABLE THING,
25 SERVICE, LARGER AMOUNT OBTAINED, OR SMALLER AMOUNT SOLD OR DIS-
26 POSED OF HAS A VALUE OF \$200.00 OR MORE BUT LESS THAN \$1,000.00,
27 THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT

1 FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN \$2,000.00 OR
2 3 TIMES THE VALUE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND
3 A FINE.

4 (4) IF THE LAND, INTEREST IN LAND, MONEY, PERSONAL PROPERTY,
5 USE OF THE INSTRUMENT, FACILITY, ARTICLE, OR VALUABLE THING,
6 SERVICE, LARGER AMOUNT OBTAINED, OR SMALLER AMOUNT DISPOSED OF
7 HAS A VALUE OF \$1,000.00 OR MORE BUT LESS THAN \$20,000.00, THE
8 PERSON IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT
9 MORE THAN 5 YEARS OR A FINE OF NOT MORE THAN \$10,000.00 OR 3
10 TIMES THE VALUE, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
11 FINE.

12 (5) IF THE land, interest in land, money, personal property,
13 use of ~~such~~ THE instrument, facility, ~~or~~ article, OR valuable
14 thing, service, larger amount obtained, or ~~less~~ SMALLER amount
15 SOLD OR disposed of ~~shall be of the~~ HAS A value of \$20,000.00
16 OR more, ~~than \$100.00, such~~ THE person ~~shall be~~ IS guilty of
17 a felony ~~—~~ punishable by imprisonment ~~in the state prison~~ FOR
18 not more than 10 years or ~~by~~ a fine of not more than
19 ~~\$5,000.00~~ 3 TIMES THE VALUE, OR BOTH.

20 Sec. 219a. (1) ~~Any~~ A person who knowingly obtains or
21 attempts to obtain telephone service or the transmission of a
22 telephone message by ~~the use of any~~ USING A false or fictitious
23 telephone credit number or telephone number, or by ~~the use of~~
24 ~~any~~ USING THE telephone credit number or telephone number of
25 another PERSON without the authority of the person to whom ~~such~~
26 THAT TELEPHONE credit number or telephone number was issued, is
27 guilty of a CRIME AS FOLLOWS:

1 (A) IF THE TOTAL VALUE OF THE TELEPHONE SERVICE OR
2 TRANSMISSION OBTAINED OR ATTEMPTED TO BE OBTAINED IS LESS THAN
3 \$200.00, THE PERSON IS GUILTY OF A misdemeanor PUNISHABLE BY
4 IMPRISONMENT FOR NOT MORE THAN 93 DAYS OR A FINE OF NOT MORE THAN
5 \$500.00 OR 3 TIMES THE TOTAL VALUE OF THE TELEPHONE SERVICE OR
6 TRANSMISSION OBTAINED OR ATTEMPTED TO BE OBTAINED, WHICHEVER IS
7 GREATER, OR BOTH IMPRISONMENT AND A FINE.

8 (B) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
9 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR
10 OR A FINE OF NOT MORE THAN \$2,000.00 OR 3 TIMES THE TOTAL VALUE
11 OF THE TELEPHONE SERVICE OR TRANSMISSION OBTAINED OR ATTEMPTED TO
12 BE OBTAINED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A
13 FINE:

14 (i) THE TOTAL VALUE OF THE TELEPHONE SERVICE OR TRANSMISSION
15 OBTAINED OR ATTEMPTED TO BE OBTAINED IS \$200.00 OR MORE BUT LESS
16 THAN \$1,000.00.

17 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS A PRIOR
18 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
19 UNDER THAT SUBDIVISION.

20 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
21 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
22 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE TOTAL VALUE OF
23 THE TELEPHONE SERVICE OR TRANSMISSION OBTAINED OR ATTEMPTED TO BE
24 OBTAINED, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

25 (i) THE TOTAL VALUE OF THE TELEPHONE SERVICE OR TRANSMISSION
26 OBTAINED OR ATTEMPTED TO BE OBTAINED IS \$1,000.00 OR MORE BUT
27 LESS THAN \$20,000.00.

1 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 2 OR MORE
2 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
3 OFFENSE UNDER THAT SUBDIVISION.

4 (iii) THE PERSON VIOLATES SUBDIVISION (B) AND HAS A PRIOR
5 CONVICTION FOR COMMITTING OR ATTEMPTING TO COMMIT AN OFFENSE
6 UNDER THAT SUBDIVISION.

7 (D) If the total value of THE telephone service OR
8 TRANSMISSION obtained ~~in a manner prohibited by this section~~
9 ~~exceeds \$100.00~~ OR ATTEMPTED TO BE OBTAINED IS \$20,000.00 OR
10 MORE, the ~~offense shall be prosecuted as~~ PERSON IS GUILTY OF a
11 felony PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS OR A
12 FINE OF NOT MORE THAN 3 TIMES THE VALUE OF THE TELEPHONE SERVICE
13 OR TRANSMISSION OBTAINED OR ATTEMPTED TO BE OBTAINED, OR BOTH.

14 (2) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
15 SENTENCE UNDER SUBSECTION (1)(B) BASED UPON THE DEFENDANT HAVING
16 A PRIOR CONVICTION, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE
17 COMPLAINT AND INFORMATION A STATEMENT LISTING THAT PRIOR
18 CONVICTION. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
19 SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY, AT SENTENCING.
20 THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTABLISHED BY ANY
21 EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT NOT LIMITED
22 TO, 1 OR MORE OF THE FOLLOWING:

23 (A) A COPY OF THE JUDGMENT OF CONVICTION.

24 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
25 SENTENCING.

26 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

1 (D) THE DEFENDANT'S STATEMENT.

2 Section 2. This amendatory act shall take effect October 1,
3 1995.