

# SENATE BILL NO. 23

January 15, 2019, Introduced by Senator RUNESTAD and referred to the Committee on Judiciary and Public Safety.

A bill to prohibit the theft of mail; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties and provide remedies.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "mail  
2 and mail depository protection act".

3       Sec. 2. As used in this act:

4       (a) "Mail" means a letter, postal card, package, bag, or any  
5 other article or thing contained therein, or other sealed article  
6 addressed to a person.

1 (b) "Mail carrier" means a person who is employed to deliver  
2 and collect mail.

3 (c) "Mail depository" means a mailbox, letter box, or mail  
4 receptacle, a post office or a station of a post office, a postal  
5 service vehicle, or any authorized depository for mail.

6 (d) "Person" means an individual, partnership, corporation,  
7 limited liability company, association, or other legal entity.

8 Sec. 3. (1) A person shall not do any of the following with  
9 respect to mail that is addressed to another person:

10 (a) Knowingly and intentionally remove mail from a mail  
11 depository.

12 (b) Knowingly and intentionally take mail from a mail carrier.

13 (c) Obtain custody of mail by intentionally deceiving a mail  
14 carrier, or other person who rightfully possesses or controls the  
15 mail, by making a written, verbal, or electronic representation  
16 that the person knows to be false with intent to deceive and  
17 actually deceive a mail carrier or other person who possesses or  
18 controls the mail.

19 (d) Knowingly and intentionally remove the contents of mail.

20 (e) Knowingly and intentionally take mail that has been left  
21 for delivery at the location specified on the mail.

22 (f) Knowingly and intentionally take mail that has been left  
23 for collection on or adjacent to a mail depository.

24 (g) Knowingly and intentionally destroy or damage mail.

25 (h) Receive, possess, transfer, or conceal mail, knowing or  
26 having reason to believe the mail was obtained in violation of this  
27 section or in a manner that is otherwise prohibited by the law of  
28 this state or of the United States.

29 (2) Except for a person that is charged with a violation of

1 subsection (1)(c), a person may assert 1 or more of the following  
2 as an affirmative defense to an alleged violation of subsection  
3 (1):

4 (a) That the person acted with the consent of the person to  
5 whom the mail was addressed, unless that person gave consent  
6 knowing that the information would be used to commit an unlawful  
7 act.

8 (b) That the action taken was authorized or required by state  
9 or federal law, rule, or regulation, or a court order or rule.

10 (c) That the person is the legal guardian of a child or an  
11 adult and is authorized to possess the mail of that child or adult  
12 and to make decisions regarding access to that mail.

13 (3) A person asserting an affirmative defense under subsection  
14 (2) has the burden of establishing the affirmative defense by a  
15 preponderance of the evidence.

16 (4) A person who violates this section is guilty of a felony  
17 punishable as follows:

18 (a) Except as otherwise provided in subdivisions (b) and (c),  
19 by imprisonment for not more than 5 years or a fine of not more  
20 than \$25,000.00, or both.

21 (b) If the violation is a second violation of this section, by  
22 imprisonment for not more than 10 years or a fine of not more than  
23 \$50,000.00, or both.

24 (c) If the violation is a third or subsequent violation of  
25 this section, by imprisonment for not more than 15 years or a fine  
26 of not more than \$75,000.00, or both.

27 (5) This section applies whether a person whose mail is  
28 obtained, or attempted to be obtained, if the person is an  
29 individual, in violation of this section is alive or deceased at

1 the time of the violation.

2 (6) This section does not prohibit a person from being charged  
3 with, convicted of, or sentenced for any other violation of law  
4 committed by that person using mail obtained in violation of this  
5 section or any other violation of law committed by that person  
6 while violating or attempting to violate this section.

7 (7) The court may order that a term of imprisonment imposed  
8 under this section be served consecutively to any term of  
9 imprisonment imposed for a conviction of any other violation of law  
10 committed by that person using mail obtained in violation of this  
11 section or any other violation of law committed by that person  
12 while violating or attempting to violate this section.

13 (8) It is an affirmative defense to a prosecution under this  
14 section that the person lawfully transferred, obtained, or  
15 attempted to obtain mail for the purpose of detecting, preventing,  
16 or deterring mail theft or another crime. The defendant has the  
17 burden of establishing the affirmative defense by a preponderance  
18 of the evidence.

19 Enacting section 1. This act takes effect 90 days after the  
20 date it is enacted into law.