

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.181 Embezzlement of property belonging to person and part owner; violation; penalty; enhanced sentence based on prior convictions.

Sec. 181. (1) An agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person who receives or collects in any manner money or other personal property that is partly the property of another person, governmental entity within this state, or other legal entity and partly the property of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person shall not embezzle, fraudulently dispose of, convert to his or her own use, or take or secrete with intent to embezzle or convert to his or her own use the money or personal property without the consent of the part owner of the money or personal property.

(2) If the money or personal property embezzled, disposed of, converted, taken, or secreted has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(4) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) Except as otherwise provided in this subsection, the values of money or property embezzled, disposed of, converted, taken, or secreted in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property embezzled, disposed of, converted, taken, or secreted. If the scheme or course of conduct is directed against only 1 person, governmental entity within this state, or other legal entity, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) In a prosecution under this section, it is not a defense that the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person was entitled to a compensation out of the money or personal property as compensation for collecting or receiving it for its owner, but it is not embezzlement by

the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to retain his or her reasonable collection fee on the collection or any other valid interest he or she has in the money or personal property.

(9) In a prosecution under this section, the failure, neglect, or refusal of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to pay, deliver, or refund to the proper person the money or personal property entrusted to his or her care, upon demand, is prima facie proof of intent to embezzle.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.181;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 55 of Ch. 154 of R.S. 1846, being How., § 9176a; CL 1897, § 11591; CL 1915, § 15336; CL 1929, § 16932; Act 110 of 1885; and Act 114 of 1897.