

ENGROSSED HOUSE  
BILL NO. 1601

BY: VAUGHN (Ray),  
LITTLEFIELD, COX,  
CAMPBELL, APPLE and  
FERGUSON of the HOUSE

and

GUSTAFSON of the SENATE

AN ACT RELATING TO CRIMES AND PUNISHMENTS; AMENDING  
21 O.S. 1981, SECTIONS 1541.2 AND 1541.3, AS  
AMENDED BY SECTIONS 2 AND 3, CHAPTER 277, O.S.L.  
1982, 1541.4 AND 1627 AND SECTION 1, CHAPTER 130,  
O.S.L. 1985 (21 O.S. SUPP. 1990, SECTIONS 1541.2,  
1541.3 AND 1627.1), WHICH RELATE TO OBTAINING  
CERTAIN PROPERTY BY TRICK OR DECEPTION AND CERTAIN  
LABOR AND SERVICES BY USE OF FALSE OR BOGUS CHECKS;  
DEFINING TERM; MODIFYING CERTAIN PENALTIES;  
MODIFYING DEFINITION; ADDING CERTAIN CIVIL DAMAGES  
FOR CERTAIN OFFENSES; PROVIDING FOR RECODIFICATION;  
AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1981, Section 1541.2, as  
amended by Section 2, Chapter 277, O.S.L. 1982 (21 O.S. Supp. 1990,  
Section 1541.2), is amended to read as follows:

Section 1541.2 If the value of the money, property, labor,  
personal service or valuable thing referred to in Section 1541.1 of  
this title or Section 3 of this act is Fifty Dollars (\$50.00) or

more, any person convicted hereunder shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary, for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 2. AMENDATORY 21 O.S. 1981, Section 1541.3, as amended by Section 3, Chapter 277, O.S.L. 1982 (21 O.S. Supp. 1990, Section 1541.3), is amended to read as follows:

Section 1541.3 Any person making, drawing, uttering or delivering two or more false or bogus checks, drafts or orders, as defined by Section 1541.4 of this title or Section 3 of this act, the total sum of which is Fifty Dollars (\$50.00) or more, even though each separate instrument is written for less than Fifty Dollars (\$50.00), all in pursuance of a common scheme or plan to cheat and defraud, shall be deemed guilty of a felony and shall be punished by imprisonment in the State Penitentiary, for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

SECTION 3. AMENDATORY 21 O.S. 1981, Section 1627, is amended to read as follows:

Section 1627. Every person who, with intent to cheat or defraud, shall obtain or attempt to obtain from any person any labor or personal services, or the postponement of actual payment due for labor or personal services theretofore performed, by means or use of any false or bogus written, printed or engraved order directing the payment of money, the total sum of which is less than Fifty Dollars (\$50.00), shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), or by imprisonment in the county jail for not more than six (6) months, or by both such fine and imprisonment.

The term "false or bogus written, printed or engraved order directing the payment of money", in addition to its common meaning, also shall include any check, draft or order on any bank or trust company which is not honored on presentation on account of insufficient funds to the credit of the maker or drawer thereof with which to pay same. The word "credit", as used herein, shall mean any arrangement or understanding with a bank or trust company for the payment by it of any check, draft or money payment order. For purposes of this section and Sections 1 and 2 of this act, the term "personal service" or "credit" shall not include public utility services or credit extended by such public utility services.

As against the maker or drawer of any false or bogus written, printed or engraved order directing the payment of money, and as against any officer or employee of the maker or drawer thereof, who shall authorize or direct the making, drawing, uttering or delivering, or who shall make, draw, utter or deliver any such false or bogus written, printed or engraved order directing the payment of money, to obtain or to attempt to obtain from any person any labor or personal services, or the postponement of actual payment due for labor or personal services, the fact of dishonor or refusal to pay the amount of money specified in said false or bogus order shall be prima facie evidence of intent to cheat or defraud, and of knowledge of insufficient funds to the credit of the maker or drawer, with the drawer specified therein, to pay the same; provided, said fact shall not constitute prima facie evidence as above set forth if the maker or drawer shall pay the amount of such false or bogus order, together with protest fees, within five (5) days from the date the same shall have been presented to the drawer for payment; and provided further, that said fact shall not constitute prima facie evidence as above set forth unless the said false or bogus order be presented to the drawer within thirty (30) days after the same shall have been uttered or delivered.

SECTION 4. AMENDATORY Section 1, Chapter 130, O.S.L. 1985 (21 O.S. Supp. 1990, Section 1627.1), is amended to read as follows:

Section 1627.1 In addition to the criminal penalties imposed pursuant to the provisions of ~~Section 1627~~ Sections 1541.1 and 1541.2 of ~~Title 21 of the Oklahoma Statutes~~ this title and Section 3 of this act, any person who obtains or attempts to obtain from any person, with the intent to cheat or defraud, any labor or personal services, or the postponement of actual payment due for labor or personal services performed, by means or use of any false or bogus written, printed or engraved order directing the payment of money, shall also be liable to the payee, in addition to the amount owing upon such order, for damages of double the amount so owing, but in no case shall the amount of damages awarded be less than Two Hundred Dollars (\$200.00), plus reasonable attorney fees and court costs. Said damages shall be recoverable in a civil action.

SECTION 5. AMENDATORY 21 O.S. 1981, Section 1541.4, is amended to read as follows:

Section 1541.4 The term "false or bogus check or checks" shall include checks or orders which are not honored on account of insufficient funds of the maker to pay same, or because the check or order was drawn on a closed account or on a nonexistent account when such checks or orders are given in exchange for money or property or in exchange for any benefit or thing of value or are presented for payment on an account where credit has been extended, as against the maker or drawer thereof, the making, drawing, uttering or delivering of a check, draft or order, payment of which is refused by the drawee, shall be prima facie evidence of intent to defraud and the knowledge of insufficient funds in, or credit with, such bank or other depository; provided, such maker or drawer shall not have paid the drawee thereof the amount due thereon, together with the protest fees, within five (5) days from the date the same is presented for

payment; and provided, further, that said check or order is presented for payment within thirty (30) days after same is delivered and accepted.

SECTION 6. RECODIFICATION 21 O.S. 1981, Section 1627, as amended by Section 3 of this act, shall be recodified as Section 1541.1a of Title 21 of the Oklahoma Statutes, and Section 1, Chapter 130, O.S.L. 1985 (21 O.S. Supp. 1990, Section 1627.1), as amended by Section 4 of this act, shall be recodified as Section 1541.2a of Title 21 of the Oklahoma Statutes, unless there is created a duplication in numbering.

SECTION 7. This act shall become effective September 1, 1991.

Passed the House of Representatives the 4th day of March, 1991.

Speaker of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1991.

President of the Senate