

ENGROSSED HOUSE
BILL NO. 1642

By: Settle

An Act relating to crimes and punishments; amending 21 O.S. 1991, Section 101, which relates to the definition of writing; modifying definition; creating a new Chapter 63A, which relates to forgery and counterfeiting devices; defining terms; providing for crimes of forgery, uttering a forged instrument, possession of a forged instrument, and possessing or manufacturing a counterfeit device; providing penalties; amending 21 O.S. 1991, Sections 380 and 381, which relate to bribery; prohibiting bribery of sports officials or participants; defining terms; prohibiting bribery of public servants; prohibiting public servant from accepting bribes; providing penalty; providing exception; repealing 21 O.S. 1991, Sections 97, 265, 266, 308, 309, 318, 382, 383 and 384, which relate to bribery, 386 and 387, which relate to accepting gifts, 399 and 400, which relate to bribery of participants and officials of athletic contests, 456, which relates to bribing witnesses, Sections 463, 464, 1561, 1562, 1571, 1572, 1573, 1575, 1576, 1577, 1578, 1579, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1622, 1623, 1624, 1625, 1626 and 1628, which relate

to forgery or counterfeiting; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 1991, Section 101, is amended to read as follows:

Section 101. The term "writing" ~~includes printing~~ consists of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, laser printing, printing, impression, seal, photostatting, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation.

Chapter 63A. Forgery and Counterfeiting Devices

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1630-1 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. In forgery and related crimes:

1. "Apparent legal significance" means that an instrument seems to be legal. An instrument need not create a valid and enforceable obligation. It is sufficient that the instrument could reasonably deceive another person;

2. "Defraud" means to misrepresent the validity of a writing;

3. "False writing" means one which was false from its inception or which became false through tampering with what was originally genuine. It is not a true and genuine instrument which merely contains false statements. A writing consists of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, laser printing, printing, impression, seal, photostatting, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation; and

4. "Making" means to create, sign, procure to be signed, or to falsify by materially altering, erasing, marking or obliterating.

B. In the crime of possessing or manufacturing a counterfeiting device:

1. "Counterfeit" means an imitation of something genuine, including a simulation, forgery or alteration;

2. "Counterfeiting device" means any apparatus capable of producing counterfeit official documentation or counterfeit official insignia through printing, engraving or any other method;

3. "Official documentation" means a certificate, form, label, letterhead or other similar material used by a governmental entity;

4. "Official insignia" means any mark, seal, stamp or other symbol of a governmental entity; and

5. "Relevant governmental entity" means that governmental entity of which the official documentation or official insignia has been counterfeited.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1630-2 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Forgery occurs when a person makes a false writing which has apparent legal significance and which is made with the intent to defraud.

B. Any person convicted of forgery shall be guilty of a felony punishable by imprisonment for not more than twenty (20) years.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1630-3 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Uttering a forged instrument occurs when a person offers as genuine a false writing which the person knows is false and which is offered with the intent to defraud.

B. Any person convicted of uttering a forged instrument shall be guilty of a felony punishable by imprisonment for not more than twenty (20) years.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1630-4 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Possession of a forged instrument occurs when a person knowingly possesses with the intent to defraud a false writing which the person knows is false.

B. Any person convicted of possession of a forged instrument shall be guilty of a felony punishable by imprisonment for not more than seven (7) years.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1630-5 of Title 21, unless there is created a duplication in numbering, reads as follows:

A. Possessing or manufacturing counterfeiting devices occurs when a person knowingly manufactures or possesses any counterfeiting device without the authorization of the relevant governmental entity.

B. Any person convicted of possessing or manufacturing counterfeiting devices shall be guilty of a felony punishable by imprisonment for not more than seven (7) years.

SECTION 7. AMENDATORY 21 O.S. 1991, Section 380, is amended to read as follows:

Section 380. A. Any fiduciary, sports official or sports participant who, with a corrupt intent and without the consent of his the beneficiary, intentionally or knowingly solicits, accepts, or agrees to accept any bribe from another person with the agreement or understanding that the bribe as defined by law will influence the conduct of the fiduciary, sports official or sports participant in relation to the affairs of ~~his~~ the beneficiary, upon conviction, is guilty of a felony punishable by imprisonment in a state

correctional institution for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00) or an amount fixed by the court not to exceed twice the value of the benefit gained from the bribe, or by both said imprisonment and fine.

B. Any person who offers, confers, or agrees to confer any bribe the acceptance of which is an offense pursuant to the provisions of subsection A of this section, upon conviction, is guilty of a felony punishable by imprisonment in a state correctional institution for a term not more than ten (10) years, or by a fine not to exceed Five Thousand Dollars (\$5,000.00), or both.

C. As used in subsection A of this section:

1. "Beneficiary" means any person for whom a fiduciary is acting~~;~~;

2. "Fiduciary" means:

a. an agent or employee~~;~~~~or~~;

b. a trustee, guardian, custodian, administrator, executor, conservator, receiver, or similar fiduciary~~;~~~~or~~;

c. a lawyer, physician, accountant, appraiser, or other professional advisor~~;~~ or

d. an officer, director, partner, manager, or other participant in the direction of the affairs of a corporation or association;

3. "Sports contest" means any professional or amateur sport or athletic game or contest between individual contestants or teams of contestants, public notice of the occurrence of which is given before the event;

4. "Sports official" means any person who acts in sports contests as an umpire, referee, judge or otherwise officiates at sports contests. It also means any person having duties in relation to any horse race or racehorse, including any trainer, jockey,

starter, assistant starter, gatekeeper or agent, or any other person having charge of, or access to, any racehorse; and

5. "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or team member, coach, manager, trainer or any other person directly associated with a player, contestant, team or team member in connection with a sports contest.

SECTION 8. AMENDATORY 21 O.S. 1991, Section 381, is amended to read as follows:

Section 381. A. ~~Whoever corruptly gives, offers, or promises to any executive, legislative, county, municipal, judicial, or other public officer, or any employee of the State of Oklahoma or any political subdivision thereof, including peace officers and any other law enforcement officer, or any person assuming to act as such officer, after his election or appointment, either before or after he has qualified or has taken his seat,~~ public servant any gift or gratuity whatever, with intent to influence ~~his~~ the act, vote, opinion, decision, or judgment of the public servant on any matter, question, cause, or proceeding which then may be pending, or may by law come or be brought before ~~him~~ the public servant in ~~his~~ an official capacity, ~~or as a consideration for any speech, work, or service in connection therewith,~~ is guilty of bribery and shall be punished by imprisonment in the State Penitentiary not exceeding five (5) years, or by a fine not exceeding Three Thousand Dollars (\$3,000.00) and imprisonment in jail not exceeding one (1) year.

B. Any public servant who corruptly accepts or requests a gift or gratuity or a promise to make a gift or a promise to do an act beneficial to that public servant, or that judgment shall be given in any particular manner, or upon a particular side of any question, cause or proceeding, which is or may be by law brought before that public servant in an official capacity or that in such capacity the public servant makes any particular nomination or appointment, shall

forfeit the office, be forever disqualified to hold that public office or any other public office, trust or appointment under the laws of this state and be punished by imprisonment in the State Penitentiary not exceeding ten (10) years or by a fine not exceeding Five Thousand Dollars (\$5,000.00) and imprisonment in jail not exceeding one (1) year.

C. As used in this section, "public servant" means any executive, legislative, county, municipal, judicial or other public officer, or any employee of the State of Oklahoma or any political subdivision thereof, including peace officers and any other law enforcement officer or any person assuming to act as such officer, after election or appointment, either before or after the person has qualified or has taken the seat, including a judicial officer, juror, referee, arbitrator, umpire or assessor or any person who may be authorized by law or agreement of parties interested to hear or determine any question or controversy.

D. The word "gift", as used in this section, shall not include property received by inheritance, by will or by gift in view of death.

SECTION 9. REPEALER 21 O.S. 1991, Sections 97, 265, 266, 308, 309, 318, 382, 383, 384, 386, 387, 399, 400, 456, 463, 464, 1561, 1562, 1571, 1572, 1573, 1575, 1576, 1577, 1578, 1579, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1622, 1623, 1624, 1625, 1626 and 1628, are hereby repealed.

SECTION 10. This act shall become effective November 1, 1997.

Passed the House of Representatives the 27th day of February, 1997.

Speaker of the House of Representatives

Passed the Senate the ____ day of _____, 1997.

President of the Senate