

THE HOUSE OF REPRESENTATIVES
Wednesday, February 24, 2010

House Bill No. 2962

HOUSE BILL NO. 2962 - By: WRIGHT (HAROLD) of the House and SCHULZ of the Senate.

An Act relating to crimes and punishments; amending 21 O.S. 2001, Section 1451, as last amended by Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2009, Section 1451), which relates to embezzlement definitions and penalties; providing penalties for embezzlement from an estate; and providing an effective date.

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

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1451, as last amended by
2 Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp. 2009, Section 1451), is amended to
3 read as follows:

4 Section 1451. A. Embezzlement is the fraudulent appropriation of property of any
5 person or legal entity, legally obtained, to any use or purpose not intended or authorized
6 by its owner, or the secretion of the property with the fraudulent intent to appropriate it
7 to such use or purpose, under any of the following circumstances:

8 1. Where the property was obtained by being entrusted to that person for a specific
9 purpose, use, or disposition and shall include, but not be limited to, any funds "held in
10 trust" for any purpose;

11 2. Where the property was obtained by virtue of a power of attorney being granted
12 for the sale or transfer of the property;

- 1 3. Where the property is possessed or controlled for the use of another person;
- 2 4. Where the property is to be used for a public or benevolent purpose;
- 3 5. Where any person diverts any money appropriated by law from the purpose and
4 object of the appropriation;
- 5 6. Where any person fails or refuses to pay over to the state, or appropriate
6 authority, any tax or other monies collected in accordance with state law, and who
7 appropriates the tax or monies to the use of that person, or to the use of any other person
8 not entitled to the tax or monies;
- 9 7. Where the property is possessed for the purpose of transportation, without
10 regard to whether packages containing the property have been broken;
- 11 8. Where any person removes crops from any leased or rented premises with the
12 intent to deprive the owner or landlord interested in the land of any of the rent due from
13 that land, or who fraudulently appropriates the rent to that person or any other person;
14 or
- 15 9. Where the property is possessed or controlled by virtue of a lease or rental
16 agreement, and the property is willfully or intentionally not returned within ten (10)
17 days after the expiration of the agreement.
- 18 Embezzlement does not require a distinct act of taking, but only a fraudulent
19 appropriation, conversion or use of property.
- 20 B. Except as provided in ~~subsection~~ subsections C and D of this section,
21 embezzlement shall be punished as follows:

1 1. If the value of the property embezzled is less than Five Hundred Dollars
2 (\$500.00), any person convicted shall be punished by a fine not exceeding One Thousand
3 Dollars (\$1,000.00), or by imprisonment in the county jail for a term not more than one
4 (1) year, or by both such fine and imprisonment;

5 2. If the value of the property embezzled is Five Hundred Dollars (\$500.00), or
6 more but less than One Thousand Dollars (\$1,000.00), any person convicted shall be
7 guilty of a felony and shall be punished by imprisonment in the county jail for not more
8 than one (1) year or by imprisonment in the county jail for one or more nights or
9 weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma Statutes, at the
10 discretion of the court, and shall be subject to a fine not exceeding Five Thousand Dollars
11 (\$5,000.00), and ordered to pay restitution to the victim as provided in Section 991f of
12 Title 22 of the Oklahoma Statutes;

13 3. If the value of the property embezzled is One Thousand Dollars (\$1,000.00) or
14 more but less than Twenty-five Thousand Dollars (\$25,000.00), any person convicted
15 shall be guilty of a felony and shall be punished by imprisonment in the ~~State~~
16 Penitentiary custody of the Department of Corrections for a term of not more than five
17 (5) years, and a fine of not exceeding Five Thousand Dollars (\$5,000.00), and ordered to
18 pay restitution to the victim as provided in Section 991f of Title 22 of the Oklahoma
19 Statutes; or

20 4. If the value of the property embezzled is Twenty-five Thousand Dollars
21 (\$25,000.00) or more, any person convicted shall be guilty of a felony and shall be
22 punished by imprisonment in the ~~State Penitentiary~~ custody of the Department of

1 Corrections for a term of not more than ten (10) years, and a fine not exceeding Ten
2 Thousand Dollars (\$10,000.00), and ordered to pay restitution to the victim as provided
3 in Section 991f of Title 22 of the Oklahoma Statutes.

4 C. Any county or state officer, deputy or employee of such officer, who shall divert
5 any money appropriated by law from the purpose and object of the appropriation, shall,
6 upon conviction, be guilty of a felony punishable by imprisonment in the ~~State~~
7 Penitentiary custody of the Department of Corrections for a term not less than one (1)
8 year nor more than ten (10) years, and a fine equal to triple the amount of money so
9 embezzled and ordered to pay restitution to the victim as provided in Section 991f of Title
10 22 of the Oklahoma Statutes. The fine shall operate as a judgment lien at law on all
11 estate of the party so convicted and sentenced, and shall be enforced by execution or
12 other process for the use of the person whose money or other funds or property were
13 embezzled. In all cases the fine, so operating as a judgment lien, shall be released or
14 entered as satisfied only by the person in interest.

15 D. Any executor, administrator or party to a probate proceeding convicted of
16 embezzlement from an estate, shall be guilty of a felony and, upon conviction, shall be
17 subject to imprisonment in the custody of the Department of Corrections for not more
18 than ten (10) years, or a fine of not less than One Thousand Dollars (\$1,000.00) or an
19 amount equal to the amount embezzled, if the amount embezzled is more than One
20 Thousand Dollars (\$1,000.00), or both fine and imprisonment and ordered to pay
21 restitution to the estate pursuant to Section 991f of Title 22 of the Oklahoma Statutes.

1 In addition, any person convicted pursuant to this subsection shall not be eligible for any
2 portion of the estate unless restitution requirements have been satisfied.

3 SECTION 2. This act shall become effective November 1, 2010.

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 02-23-10 - DO PASS,
5 As Coauthored.