

HOUSE OF REPRESENTATIVES
CONFERENCE COMMITTEE REPORT

Mr. President:
Mr. Speaker:

The Conference Committee, to which was referred

HB1322

By: Wright of the House and Schulz of the Senate

Title: Crimes and punishments; providing penalties for embezzlement from an estate; effective date.

Together with Engrossed Senate Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

That the House Concurs in Senate Amendment No. 1.

That the Senate recede from Amendment No. 2.

That the following Conference Committee Amendment be adopted:

1. Page 1, Line 7, amend the title to read as follows:

“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. 2010, Section 1451), which relates to embezzlement; providing penalty for embezzlement from an estate; and providing an effective date.”

Respectfully submitted,

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE CONFEREES

Jordan Fred Jordan

Martin (Steve) Steve Martin

McCullough W. E. McCullough

Moore _____

Morrisette Richard Morrisette

Roan Paul D. Roan

Roberts (Dustin) D. E. Roberts

Schwartz Ally Schwartz

Sherrer Ben Sherrer

Sullivan Alan Sullivan

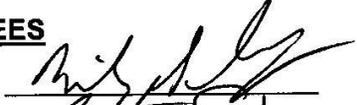
Tibbs Sue Tibbs

Wesselhoft Paul Wesselhoft

Williams Clay Williams

SENATE CONFEREES

Schulz



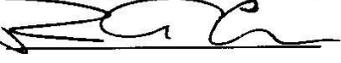
Sykes



Nichols



Crain



Laster

Burrage

House Action _____ Date _____ Senate Action _____ Date _____

HOUSE ACTION _____ Date _____ SENATE ACTION _____ Date _____

1 ENGROSSED SENATE AMENDMENTS
TO

2 ENGROSSED HOUSE
BILL NO. 1322

By: Wright of the House

and

Schulz of the Senate

6 An Act relating to crimes and punishments; amending
21 O.S. 2001, Section 1451, as last amended by
7 Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp.
2010, Section 1451), which relates to embezzlement;
8 modifying definition; providing penalty for
embezzlement from an estate; and providing an
9 effective date.

10 AMENDMENT NO. 1. Page 2, lines 1 and 2, delete all new language

11 AMENDMENT NO. 2. Page 1, strike the title to read

12 "[crimes and punishments - embezzlement - effective
date]"

13 and when the title is restored, amend the title to
14 conform

15 Passed the Senate the 13th day of April, 2011.

17 _____
18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,

20 2011.

22 _____
23 Presiding Officer of the House
of Representatives

1 ENGROSSED HOUSE
2 BILL NO. 1322

By: Wright of the House

3 and

4 Schulz of the Senate
5
6

7 An Act relating to crimes and punishments; amending
8 21 O.S. 2001, Section 1451, as last amended by
9 Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp.
10 2010, Section 1451), which relates to embezzlement;
11 modifying definition; providing penalty for
12 embezzlement from an estate; and providing an
13 effective date.

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

15 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1451, as
16 last amended by Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp.
17 2010, Section 1451), is amended to read as follows:

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

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

1 purpose and any property of an estate of a decedent, whether such
2 estate is held intestate, in probate, in trust or otherwise;

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

5 3. Where the property is possessed or controlled for the use of
6 another person;

7 4. Where the property is to be used for a public or benevolent
8 purpose;

9 5. Where any person diverts any money appropriated by law from
10 the purpose and object of the appropriation;

11 6. Where any person fails or refuses to pay over to the state,
12 or appropriate authority, any tax or other monies collected in
13 accordance with state law, and who appropriates the tax or monies to
14 the use of that person, or to the use of any other person not
15 entitled to the tax or monies;

16 7. Where the property is possessed for the purpose of
17 transportation, without regard to whether packages containing the
18 property have been broken;

19 8. Where any person removes crops from any leased or rented
20 premises with the intent to deprive the owner or landlord interested
21 in the land of any of the rent due from that land, or who
22 fraudulently appropriates the rent to that person or any other
23 person; or
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1 9. Where the property is possessed or controlled by virtue of a
2 lease or rental agreement, and the property is willfully or
3 intentionally not returned within ten (10) days after the expiration
4 of the agreement.

5 Embezzlement does not require a distinct act of taking, but only
6 a fraudulent appropriation, conversion or use of property.

7 B. Except as provided in subsection C of this section,
8 embezzlement shall be punished as follows:

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

14 2. If the value of the property embezzled is Five Hundred
15 Dollars (\$500.00), or more but less than One Thousand Dollars
16 (\$1,000.00), any person convicted shall be guilty of a felony and
17 shall be punished by imprisonment in the county jail for not more
18 than one (1) year or by imprisonment in the county jail for one or
19 more nights or weekends pursuant to Section 991a-2 of Title 22 of
20 the Oklahoma Statutes, at the discretion of the court, and shall be
21 subject to a fine not exceeding Five Thousand Dollars (\$5,000.00),
22 and ordered to pay restitution to the victim as provided in Section
23 991f of Title 22 of the Oklahoma Statutes;

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

10 4. If the value of the property embezzled is Twenty-five
11 Thousand Dollars (\$25,000.00) or more, any person convicted shall be
12 guilty of a felony and shall be punished by imprisonment in the
13 ~~State Penitentiary~~ custody of the Department of Corrections for a
14 term of not more than ten (10) years, and a fine not exceeding Ten
15 Thousand Dollars (\$10,000.00), and ordered to pay restitution to the
16 victim as provided in Section 991f of Title 22 of the Oklahoma
17 Statutes.

18 C. Any county or state officer, deputy or employee of such
19 officer, who shall divert any money appropriated by law from the
20 purpose and object of the appropriation, shall, upon conviction, be
21 guilty of a felony punishable by imprisonment in the ~~State~~
22 ~~Penitentiary~~ custody of the Department of Corrections for a term not
23 less than one (1) year nor more than ten (10) years, and a fine
24 equal to triple the amount of money so embezzled and ordered to pay

1 restitution to the victim as provided in Section 991f of Title 22 of
2 the Oklahoma Statutes. The fine shall operate as a judgment lien at
3 law on all estate of the party so convicted and sentenced, and shall
4 be enforced by execution or other process for the use of the person
5 whose money or other funds or property were embezzled. In all cases
6 the fine, so operating as a judgment lien, shall be released or
7 entered as satisfied only by the person in interest.

8 D. Any executor, administrator, trustee, beneficiary or other
9 person benefiting from, acting in a fiduciary capacity for, or
10 otherwise administering a probate, intestate, or trust estate,
11 whether the trust is inter vivos or testamentary, upon conviction of
12 embezzlement from the estate shall not receive any portion, share,
13 gift or otherwise benefit from the estate.

14 SECTION 2. This act shall become effective November 1, 2011.
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1 Passed the House of Representatives the 22nd day of February,
2 2011.

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Presiding Officer of the House of
Representatives

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Passed the Senate the ____ day of _____, 2011.

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Presiding Officer of the Senate

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