

1 **SENATE FLOOR VERSION**

2 March 28, 2011

3 As Amended

4 ENGROSSED HOUSE

5 BILL NO. 1322

6 By: Wright of the House

7 and

8 Schulz of the Senate

9 [crimes and punishments - embezzlement - effective
10 date]

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

12 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1451, as
13 last amended by Section 7, Chapter 275, O.S.L. 2004 (21 O.S. Supp.
14 2010, Section 1451), is amended to read as follows:

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

20 1. Where the property was obtained by being entrusted to that
21 person for a specific purpose, use, or disposition and shall
22 include, but not be limited to, any funds "held in trust" for any
23 purpose and any property of an estate of a decedent, whether such
24 estate is held intestate, in probate, in trust or otherwise;

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

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

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

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

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

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

17 8. Where any person removes crops from any leased or rented
18 premises with the intent to deprive the owner or landlord interested
19 in the land of any of the rent due from that land, or who
20 fraudulently appropriates the rent to that person or any other
21 person; or

22 9. Where the property is possessed or controlled by virtue of a
23 lease or rental agreement, and the property is willfully or
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1 intentionally not returned within ten (10) days after the expiration
2 of the agreement.

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

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

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

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

22 3. If the value of the property embezzled is One Thousand
23 Dollars (\$1,000.00) or more but less than Twenty-five Thousand
24 Dollars (\$25,000.00), any person convicted shall be guilty of a

1 felony and shall be punished by imprisonment in the ~~State~~
2 Penitentiary custody of the Department of Corrections for a term of
3 not more than five (5) years, and a fine of not exceeding Five
4 Thousand Dollars (\$5,000.00), and ordered to pay restitution to the
5 victim as provided in Section 991f of Title 22 of the Oklahoma
6 Statutes; or

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

15 C. Any county or state officer, deputy or employee of such
16 officer, who shall divert any money appropriated by law from the
17 purpose and object of the appropriation, shall, upon conviction, be
18 guilty of a felony punishable by imprisonment in the ~~State~~
19 Penitentiary custody of the Department of Corrections for a term not
20 less than one (1) year nor more than ten (10) years, and a fine
21 equal to triple the amount of money so embezzled and ordered to pay
22 restitution to the victim as provided in Section 991f of Title 22 of
23 the Oklahoma Statutes. The fine shall operate as a judgment lien at
24 law on all estate of the party so convicted and sentenced, and shall

1 be enforced by execution or other process for the use of the person
2 whose money or other funds or property were embezzled. In all cases
3 the fine, so operating as a judgment lien, shall be released or
4 entered as satisfied only by the person in interest.

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

11 SECTION 2. This act shall become effective November 1, 2011.

12 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 3-22-11 - DO
13 PASS, As Amended.

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