

STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

HOUSE BILL 2751

By: Peterson

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 2011, Section 1451, as amended by Section 1, Chapter 235, O.S.L. 2012 (21 O.S. Supp. 2015, Section 1451), which relates to embezzlement; modifying penalty for certain prohibited act; amending 21 O.S. 2011, Section 1521, which relates to bogus check for motor vehicle lease or rental; increasing certain monetary limitation; amending 21 O.S. 2011, Section 1533.1, which relates to identity theft; modifying penalty for certain prohibited act; amending 21 O.S. 2011, Sections 1704, 1705 and 1731, which relate to larceny and larceny of merchandise from a retailer; increasing certain monetary limitations; updating language; and providing an effective date.

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

SECTION 1. AMENDATORY 21 O.S. 2011, Section 1451, as amended by Section 1, Chapter 235, O.S.L. 2012 (21 O.S. Supp. 2015, Section 1451), is amended to read as follows:

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

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

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

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

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

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

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

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

21 8. Where any person removes crops from any leased or rented
22 premises with the intent to deprive the owner or landlord interested
23 in the land of any of the rent due from that land, or who
24

1 fraudulently appropriates the rent to that person or any other
2 person; or

3 9. Where the property is possessed or controlled by virtue of a
4 lease or rental agreement, and the property is willfully or
5 intentionally not returned within ten (10) days after the expiration
6 of the agreement.

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

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

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

16 2. If the value of the property embezzled is Five Hundred
17 Dollars (\$500.00), or more but less than One Thousand Dollars
18 (\$1,000.00), any person convicted shall be guilty of a ~~felony~~
19 misdemeanor and shall be punished by imprisonment in the county jail
20 for not more than one (1) year or by imprisonment in the county jail
21 for one or more nights or weekends pursuant to Section 991a-2 of
22 Title 22 of the Oklahoma Statutes, at the discretion of the court,
23 and shall be subject to a fine not exceeding Five Thousand Dollars
24

1 (\$5,000.00), and ordered to pay restitution to the victim as
2 provided in Section 991f of Title 22 of the Oklahoma Statutes;

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

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

18 For purposes of this subsection, a series of offenses may be
19 aggregated into one offense when they are the result of the
20 formulation of a plan or scheme or the setting up of a mechanism
21 which, when put into operation, results in the taking or diversion
22 of money or property on a recurring basis. When all acts result
23 from a continuing course of conduct, they may be aggregated into one
24 crime. Acts forming an integral part of the first taking which

1 facilitate subsequent takings, or acts taken in preparation of
2 several takings which facilitate subsequent takings, are relevant to
3 determine the party's intent to commit a continuing crime.

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

18 D. Any executor, administrator, trustee, beneficiary or other
19 person benefiting from, acting in a fiduciary capacity for, or
20 otherwise administering a probate, intestate, or trust estate,
21 whether the trust is inter vivos or testamentary, upon conviction of
22 embezzlement from the estate shall not receive any portion, share,
23 gift or otherwise benefit from the estate.

1 SECTION 2. AMENDATORY 21 O.S. 2011, Section 1521, is
2 amended to read as follows:

3 Section 1521 Every person who shall lease or rent, for any
4 period of time whatsoever, any motor vehicle and, with intent to
5 cheat and defraud, who pays the fees for such lease or rental by
6 means of a false, bogus or worthless check written for the sum of
7 Twenty Dollars (\$20.00) or less shall be guilty of a misdemeanor and
8 upon conviction thereof shall be punished by a fine not to exceed
9 Five Hundred Dollars (\$500.00) or by imprisonment in the county jail
10 for not more than six (6) months, or both such fine and
11 imprisonment. If the value of the false, bogus or worthless check
12 shall exceed the sum of Twenty Dollars (\$20.00) but is less than
13 ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), any
14 person convicted pursuant to this section shall be guilty of a
15 ~~felony~~ misdemeanor and shall be punished by incarceration in the
16 county jail for not to exceed one (1) year or incarceration in the
17 county jail one or more nights or weekends pursuant to Section 991a-
18 2 of Title 22 of the Oklahoma Statutes, at the option of the court,
19 and shall be subject to a fine of not more than Five Thousand
20 Dollars (\$5,000.00) and ordered to provide restitution to the victim
21 as provided in Section 991a of Title 22 of the Oklahoma Statutes.
22 If the value of the worthless check is ~~Five Hundred Dollars~~
23 ~~(\$500.00)~~ One Thousand Dollars (\$1,000.00) or more, any person
24 convicted hereunder shall be deemed guilty of a felony and shall be

1 punished by imprisonment in the ~~State Penitentiary~~ custody of the
2 Department of Corrections for a term not exceeding seven (7) years
3 or by a fine not to exceed Five Hundred Dollars (\$500.00), or both
4 such fine and imprisonment.

5 SECTION 3. AMENDATORY 21 O.S. 2011, Section 1533.1, is
6 amended to read as follows:

7 Section 1533.1 A. It is unlawful for any person to willfully
8 and with fraudulent intent obtain the name, address, ~~social security~~
9 Social Security number, date of birth, place of business or
10 employment, debit, credit or account numbers, driver license number,
11 or any other personal identifying information of another person,
12 living or dead, with intent to use, sell, or allow any other person
13 to use or sell such personal identifying information to obtain or
14 attempt to obtain money, credit, goods, property, or service in the
15 name of the other person without the consent of that person.

16 B. It is unlawful for any person to use with fraudulent intent
17 the personal identity of another person, living or dead, or any
18 information relating to the personal identity of another person,
19 living or dead, to obtain or attempt to obtain credit or anything of
20 value.

21 C. It is unlawful for any person with fraudulent intent to
22 lend, sell, or otherwise offer the use of such person's own name,
23 address, ~~social security~~ Social Security number, date of birth, or
24 any other personal identifying information or document to any other

1 person with the intent to allow such other person to use the
2 personal identifying information or document to obtain or attempt to
3 obtain any identifying document in the name of such other person.

4 D. It is unlawful for any person to willfully create, modify,
5 alter or change any personal identifying information of another
6 person with fraudulent intent to obtain any money, credit, goods,
7 property, service or any benefit or thing of value, or to control,
8 use, waste, hinder or encumber another person's credit, accounts,
9 goods, property, title, interests, benefits or entitlements without
10 the consent of that person.

11 E. Any person convicted of violating any provision of this
12 section shall be guilty of identity theft. ~~Identity theft is~~ Any
13 person who violates the provisions of subsection A, B or D of this
14 section shall, upon conviction, be guilty of a felony offense
15 punishable by imprisonment in the custody of the Department of
16 Corrections for a term of not less than one (1) year nor more than
17 five (5) years, or a fine not to exceed One Hundred Thousand Dollars
18 (\$100,000.00), or by both such fine and imprisonment. Any person
19 who violates the provisions of subsection C of this section shall,
20 upon conviction, be guilty of a misdemeanor punishable by
21 imprisonment in the county jail for a term not to exceed one (1)
22 year, or a fine not to exceed One Hundred Thousand Dollars
23 (\$100,000.00), or by both such fine and imprisonment. Restitution
24 to the victim may be ordered in addition to any criminal penalty

1 imposed by the court. The victim of identity theft may bring a
2 civil action for damages against any person participating in
3 furthering the crime or attempted crime of identity theft.

4 SECTION 4. AMENDATORY 21 O.S. 2011, Section 1704, is
5 amended to read as follows:

6 Section 1704. Grand larceny is larceny committed in either of
7 the following cases:

8 1. When the property taken is of value exceeding ~~Five Hundred~~
9 ~~Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00); or

10 2. When such property, although not of value exceeding ~~Five~~
11 ~~Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), is taken
12 from the person of another.

13 Larceny in other cases is petit larceny.

14 SECTION 5. AMENDATORY 21 O.S. 2011, Section 1705, is
15 amended to read as follows:

16 Section 1705. Grand larceny is a felony punishable by
17 imprisonment in the ~~State Penitentiary~~ custody of the Department of
18 Corrections not exceeding five (5) years if the value of the
19 property is ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars
20 (\$1,000.00) or more and if the value of the property is less than
21 ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00)
22 punishable by incarceration in the county jail for not more than one
23 (1) year or by incarceration in the county jail one or more nights
24 or weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma

1 Statutes, at the option of the court, ~~and~~. The person shall also be
2 subject to a fine of not more than Five Thousand Dollars (\$5,000.00)
3 and ordered to provide restitution to the victim as provided in
4 Section 991a of Title 22 of the Oklahoma Statutes.

5 SECTION 6. AMENDATORY 21 O.S. 2011, Section 1731, is
6 amended to read as follows:

7 Section 1731. Larceny of merchandise held for sale in retail or
8 wholesale establishments shall be punishable as follows:

9 1. For the first conviction, in the event the value of the
10 goods, edible meat or other corporeal property which has been taken
11 is less than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars
12 (\$1,000.00), the ~~violate~~ defendant shall be ~~punishable~~ punished by
13 imprisonment in the county jail for a term not exceeding thirty (30)
14 days, and by a fine not less than Ten Dollars (\$10.00) nor more than
15 Five Hundred Dollars (\$500.00); provided, for the first conviction,
16 in the event more than one item of goods, edible meat or other
17 corporeal property has been taken, punishment shall be by
18 imprisonment in the county jail for a term not to exceed thirty (30)
19 days, and by a fine not less than Fifty Dollars (\$50.00) nor more
20 than Five Hundred Dollars (\$500.00) ~~;~~ ;

21 2. If it be shown, in the trial of a case in which the value of
22 the goods, edible meat or other corporeal property is less than ~~Five~~
23 ~~Hundred Dollars (\$500.00)~~ One Thousand Dollars (\$1,000.00), that the
24 defendant has been once before convicted of the same offense, the

1 defendant shall, on a second conviction, be punished by ~~confinement~~
2 imprisonment in the county jail for a term of not less than thirty
3 (30) days nor more than one (1) year, and by a fine not exceeding
4 One Thousand Dollars (\$1,000.00);

5 3. If it be shown, upon the trial of a case where the value of
6 the goods, edible meat or other corporeal personal property is less
7 than ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars
8 (\$1,000.00), that the defendant has two or more times before been
9 convicted of the same offense, regardless of the value of the goods,
10 edible meat or other corporeal personal property involved in the
11 first two convictions, upon the third or any subsequent conviction,
12 the punishment shall be imprisonment in the ~~State Penitentiary~~
13 custody of the Department of Corrections for a term of not less than
14 two (2) nor more than five (5) years;

15 4. In the event the value of the goods, edible meat or other
16 corporeal property is ~~Five Hundred Dollars (\$500.00)~~ One Thousand
17 Dollars (\$1,000.00) or more, but is less than ~~One Thousand Dollars~~
18 ~~(\$1,000.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00), the
19 defendant shall be guilty of a felony and shall be punished by
20 imprisonment in the county jail for a term of not more than one (1)
21 year or by imprisonment in the county jail for one or more nights or
22 weekends pursuant to Section 991a-2 of Title 22 of the Oklahoma
23 Statutes, at the option of the court, ~~and~~. The defendant shall also
24 be subject to a fine of not more than Five Thousand Dollars

1 (\$5,000.00) and ordered to provide restitution to the victim as
2 provided in Section 991a of Title 22 of the Oklahoma Statutes-; and

3 5. In the event the value of the goods, edible meat or other
4 corporeal property is ~~One Thousand Dollars (\$1,000.00)~~ Two Thousand
5 Five Hundred Dollars (\$2,500.00) or more, punishment shall be
6 imprisonment in the ~~State Penitentiary~~ custody of the Department of
7 Corrections for a term of not less than one (1) year nor more than
8 five (5) years.

9 SECTION 7. This act shall become effective November 1, 2016.

10
11 55-2-8848 GRS 01/20/16
12
13
14
15
16
17
18
19
20
21
22
23
24