

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 HOUSE BILL 2751

By: Peterson

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5  
6 AS INTRODUCED

7 An Act relating to crimes and punishments; amending  
8 21 O.S. 2011, Section 1451, as amended by Section 1,  
9 Chapter 235, O.S.L. 2012 (21 O.S. Supp. 2015, Section  
10 1451), which relates to embezzlement; modifying  
11 penalty for certain prohibited act; amending 21 O.S.  
12 2011, Section 1521, which relates to bogus check for  
13 motor vehicle lease or rental; increasing certain  
14 monetary limitation; amending 21 O.S. 2011, Section  
15 1533.1, which relates to identity theft; modifying  
16 penalty for certain prohibited act; amending 21 O.S.  
17 2011, Sections 1704, 1705 and 1731, which relate to  
18 larceny and larceny of merchandise from a retailer;  
19 increasing certain monetary limitations; updating  
20 language; and providing an effective date.

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

22 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1451, as  
23 amended by Section 1, Chapter 235, O.S.L. 2012 (21 O.S. Supp. 2015,  
24 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

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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.

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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.

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