

HOUSE BILL NO. 201

INTRODUCED BY B. DAVIES, ADAMS, BALYEAT, FUCHS, OLSON, RICE, RIPLEY, WAITSCHIES,  
WALTERS, CLANCY, KASTEN, PATTISON, A. PETERSON, J. WELLS

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE OFFENSE OF THEFT BY EMBEZZLEMENT;  
~~PROVIDING A PENALTY;~~ PROVIDING A PENALTY; AND AMENDING SECTION 45-6-301, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-6-301, MCA, is amended to read:

**"45-6-301. Theft.** (1) A person commits the offense of theft when the person purposely or knowingly obtains or exerts unauthorized control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(2) A person commits the offense of theft when the person purposely or knowingly obtains by threat or deception control over property of the owner and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment probably will deprive the owner of the property.

(3) A person commits the offense of theft when the person purposely or knowingly obtains control over stolen property knowing the property to have been stolen by another and:

(a) has the purpose of depriving the owner of the property;

(b) purposely or knowingly uses, conceals, or abandons the property in a manner that deprives the owner of the property; or

(c) uses, conceals, or abandons the property knowing that the use, concealment, or abandonment



1 probably will deprive the owner of the property.

2 (4) A person commits the offense of theft when the person purposely or knowingly obtains or  
3 exerts unauthorized control over any part of any public assistance provided under Title 52 or 53 by a state  
4 or county agency, regardless of the original source of assistance, by means of:

5 (a) a knowingly false statement, representation, or impersonation; or

6 (b) a fraudulent scheme or device.

7 (5) A person commits the offense of theft when the person purposely or knowingly obtains or  
8 exerts or helps another obtain or exert unauthorized control over any part of any benefits provided under  
9 Title 39, chapter 71 or 72, by means of:

10 (a) a knowingly false statement, representation, or impersonation; or

11 (b) deception or other fraudulent action.

12 (6) A person commits the offense of theft when the person purposely or knowingly commits  
13 insurance fraud as provided in 33-1-1202.

14 (7) A person commits the offense of theft of property by embezzlement when, WITH THE PURPOSE  
15 TO DEPRIVE THE OWNER OF THE PROPERTY, the person knowingly appropriates to the person's own use or  
16 benefit by a fraudulent act or device money or property entrusted to or otherwise lawfully placed in the  
17 possession or control of the person by virtue of the person's employment.:

18 (A) PURPOSELY OR KNOWINGLY OBTAINS OR EXERTS UNAUTHORIZED CONTROL OVER PROPERTY OF THE PERSON'S  
19 EMPLOYER OR OVER PROPERTY ENTRUSTED TO THE PERSON; OR

20 (B) PURPOSELY OR KNOWINGLY OBTAINS BY DECEPTION CONTROL OVER PROPERTY OF THE PERSON'S EMPLOYER  
21 OR OVER PROPERTY ENTRUSTED TO THE PERSON.

22 ~~(7)~~(8) (a) A person convicted of the offense of theft of property not exceeding \$1,000 in value  
23 shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for ~~any~~ a term not to  
24 exceed 6 months, or both. A person convicted of a second offense shall be fined \$1,000 or be imprisoned  
25 in the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent  
26 offense shall be fined \$1,000 and be imprisoned in the county jail for a term of not less than 30 days or  
27 more than 6 months.

28 (b) ~~A Except as provided in subsection (8)(c), a~~ A EXCEPT AS PROVIDED IN SUBSECTION (8)(C), A person  
29 convicted of the offense of theft of property exceeding \$1,000 in value or theft of any commonly  
30 domesticated hoofed animal shall be fined an amount not to exceed \$50,000 or be imprisoned in ~~the a~~

1 state prison for ~~any~~ a term not to exceed 10 years, or both.

2 ~~—— (c) A person convicted of the offense of theft of property exceeding \$1,000 in value by~~  
3 ~~embezzlement shall be fined an amount not to exceed \$50,000 or be imprisoned in a state prison for a~~  
4 ~~term of not less than 1 year or more than 10 years, or both.~~

5 (C) A PERSON CONVICTED OF THE OFFENSE OF THEFT OF PROPERTY EXCEEDING \$10,000 IN VALUE BY  
6 EMBEZZLEMENT SHALL BE IMPRISONED IN A STATE PRISON FOR A TERM OF NOT LESS THAN 1 YEAR OR MORE THAN 10  
7 YEARS AND MAY BE FINED AN AMOUNT NOT TO EXCEED \$50,000. THE COURT MAY, IN ITS DISCRETION, PLACE THE  
8 PERSON ON PROBATION WITH THE REQUIREMENT THAT RESTITUTION BE MADE UNDER TERMS SET BY THE COURT. IF THE  
9 TERMS ARE NOT MET, THE REQUIRED PRISON TERM MAY BE ORDERED.

10 ~~(8)(9)~~ Amounts involved in thefts committed pursuant to a common scheme or the same  
11 transaction, whether from the same person or several persons, may be aggregated in determining the value  
12 of the property."

13 - END -