

HOUSE BILL NO. 421

INTRODUCED BY J. DOOLING, D. FERN, F. FLEMING, B. MERCER, V. RICCI, B. USHER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS REGARDING CRIMES, SPECIFICALLY THEFT AND DISORDERLY CONDUCT; PROVIDING THAT A PERSON WHO IS CONVICTED OF THEFT AND WHO USES AN EMERGENCY EXIT IN FURTHERANCE OF THAT OFFENSE IS SUBJECT TO ENHANCED PENALTIES; PROVIDING PENALTIES FOR DISORDERLY CONDUCT; AMENDING SECTIONS 45-6-301 AND 45-8-101, MCA; AND PROVIDING AN APPLICABILITY DATE."

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



1 owner of the property; or

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

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

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

8 (b) a fraudulent scheme or device.

9 (5) A person commits the offense of theft when the person purposely or knowingly obtains or exerts or
10 helps another obtain or exert unauthorized control over any part of any benefits provided under Title 39, chapter
11 71, by means of:

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

13 (b) deception or other fraudulent action.

14 (6) A person commits the offense of theft of property by embezzlement when, with the purpose to deprive
15 the owner of the property, the person:

16 (a) purposely or knowingly obtains or exerts unauthorized control over property of the person's employer
17 or over property entrusted to the person; or

18 (b) purposely or knowingly obtains by deception control over property of the person's employer or over
19 property entrusted to the person.

20 (7) (a) Except as provided in ~~subsection~~ subsections (7)(b) and (7)(d), a person convicted of a first
21 offense of the offense of theft of property not exceeding \$1,500 in value shall be fined an amount not to exceed
22 \$500. A person convicted of a second offense shall be fined an amount not to exceed \$500 or be imprisoned in
23 the county jail for a term not to exceed 6 months, or both. A person convicted of a third or subsequent offense
24 shall be fined an amount not to exceed \$500 and be imprisoned in the county jail for a term of not less than 5
25 days or more than 1 year.

26 (b) (i) Except as provided in subsection (7)(c), a person convicted of the offense of theft of property that
27 exceeds \$1,500 in value and does not exceed \$5,000 in value shall be fined an amount not to exceed \$1,500 or
28 be imprisoned in the state prison for a term not to exceed 3 years, or both. A person convicted of a second
29 offense shall be fined an amount not to exceed \$1,500 or be imprisoned in the state prison for a term not to
30 exceed 5 years, or both. A person convicted of a third or subsequent offense shall be imprisoned in the state

1 prison for a term of not less than 2 years or more than 5 years and may be fined an amount not to exceed \$5,000.

2 (ii) A person convicted of the theft of property exceeding \$5,000 in value or as part of a common scheme
3 as defined in 45-2-101, or the theft of any amount of anhydrous ammonia for the purpose of manufacturing
4 dangerous drugs, shall be fined an amount not to exceed \$10,000 or be imprisoned in a state prison for a term
5 not to exceed 10 years, or both.

6 (iii) A person convicted of the theft of any commonly domesticated hoofed animal shall be fined an
7 amount of not less than \$5,000 or more than \$50,000 or be imprisoned in a state prison for a term not to exceed
8 10 years, or both. If a prison term is deferred, the court shall order the offender to perform 416 hours of
9 community service during a 1-year period, in the offender's county of residence. In addition to the fine and
10 imprisonment, the offender's property is subject to criminal forfeiture pursuant to 45-6-328 and 45-6-329.

11 (c) A person convicted of the offense of theft of property exceeding \$10,000 in value by embezzlement
12 shall be imprisoned in a state prison for a term of not less than 1 year or more than 10 years and may be fined
13 an amount not to exceed \$50,000. The court may, in its discretion, place the person on probation with the
14 requirement that restitution be made under terms set by the court. If the terms are not met, the required prison
15 term may be ordered.

16 (d) A person convicted of a first offense for the offense of theft of property not exceeding \$1,500 in value
17 and who utilized an emergency exit in furtherance of that offense shall be fined an amount not to exceed \$500
18 or be imprisoned in the county jail for a term not to exceed 6 months, or both. On a second conviction, the
19 offender shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for a term not to
20 exceed 1 year, or both. On a third conviction, the offender shall be fined an amount not to exceed \$5,000 and be
21 imprisoned in the county jail for a term of not less than 5 days or more than 1 year.

22 (8) Amounts involved in thefts committed pursuant to a common scheme or the same transaction,
23 whether from the same person or several persons, may be aggregated in determining the value of the property.

24 (9) A person convicted of the offense of theft of property not exceeding \$100 in value is presumed to
25 qualify for a deferred imposition of sentence as long as the person has not been convicted of a misdemeanor or
26 felony offense in the past 5 years."

27

28 **Section 2.** Section 45-8-101, MCA, is amended to read:

29 **"45-8-101. Disorderly conduct.** (1) A person commits the offense of disorderly conduct if the person
30 knowingly disturbs the peace by:

- 1 (a) quarreling, challenging to fight, or fighting;
- 2 (b) making loud or unusual noises;
- 3 (c) using threatening, profane, or abusive language;
- 4 (d) rendering vehicular or pedestrian traffic impassable;
- 5 (e) rendering the free ingress or egress to public or private places impassable;
- 6 (f) disturbing or disrupting any lawful assembly or public meeting;
- 7 (g) transmitting a false report or warning of a fire or other catastrophe in a place where its occurrence
- 8 would endanger human life;
- 9 (h) creating a hazardous or physically offensive condition by any act that serves no legitimate purpose;

10 or

- 11 (i) transmitting a false report or warning of an impending explosion in a place where its occurrence would
- 12 endanger human life; OR

13 (J) IN THE COURSE OF ENGAGING IN ANY OF THE CONDUCT PROHIBITED BY SUBSECTIONS (1)(A) THROUGH (1)(F)
 14 A PEACE OFFICER RECOGNIZES THE PERSON'S CONDUCT CREATES AN ARTICULABLE PUBLIC SAFETY RISK.

15 (2) (a) Except as provided in subsections (2)(b) ~~and~~ (3), AND (4), a person convicted of the offense of

16 disorderly conduct ~~shall~~ MAY SHALL be fined an amount not to exceed \$100 ~~or be imprisoned in the county jail for~~
 17 ~~a term not to exceed 1 day, OR BOTH.~~

18 (b) A person convicted of a second or subsequent violation of subsections (1)(a) through (1)(f) within

19 1 year ~~shall~~ MAY SHALL be fined an amount not to exceed \$100 or be imprisoned in the county jail for a term not

20 to exceed 10 days, OR BOTH.

21 (3) A person convicted of a violation of subsections (1)(g) through (1)(i) shall be fined an amount not to

22 exceed \$1,000 or be imprisoned in the county jail for a term not to exceed 1 year, or both.

23 (4) A PERSON CONVICTED OF A VIOLATION OR SUBSECTION (1)(J) SHALL BE FINED AN AMOUNT NOT TO EXCEED
 24 \$500 OR BE IMPRISONED IN THE COUNTY JAIL FOR A TERM NOT TO EXCEED 1 DAY, OR BOTH."

25

26 NEW SECTION. Section 3. Applicability. [This act] applies to crimes committed on or after [the

27 effective date of this act].

28 - END -