

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER XXXI

EMBEZZLEMENT

750.174 Embezzlement by agent, servant, or employee, or trustee, bailee, or custodian; penalty; prima facie proof of intent; enhanced sentence based on prior convictions; consecutive sentence; conditions; definitions.

Sec. 174. (1) A person who as the agent, servant, or employee of another person, governmental entity within this state, or other legal entity or who as the trustee, bailee, or custodian of the property of another person, governmental entity within this state, or other legal entity fraudulently disposes of or converts to his or her own use, or takes or secretes with the intent to convert to his or her own use without the consent of his or her principal, any money or other personal property of his or her principal that has come to that person's possession or that is under his or her charge or control by virtue of his or her being an agent, servant, employee, trustee, bailee, or custodian, is guilty of embezzlement.

(2) If the money or other personal property embezzled has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the money or other property embezzled, whichever is greater, or both imprisonment and a fine:

(a) The money or other personal property embezzled has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) The person violates subsection (2) and the victim is a nonprofit corporation or charitable organization under federal law or the laws of this state.

(4) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the money or other property embezzled, whichever is greater, or both imprisonment and a fine:

(a) The money or other personal property embezzled has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (3)(a) or (c) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(c) The person violates subsection (3)(a) and the victim is a nonprofit corporation or charitable organization under federal law or the laws of this state.

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the money or other property embezzled, whichever is greater, or both imprisonment and a fine:

(a) The money or other personal property embezzled has a value of \$20,000.00 or more but less than \$50,000.00.

(b) The person violates subsection (4)(a) or (c) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(c) The person violates subsection (4)(a) and the victim is a nonprofit corporation or charitable organization under federal law or the laws of this state.

(6) If the money or other personal property embezzled has a value of \$50,000.00 or more but less than \$100,000.00, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$25,000.00 or 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

(7) If the money or other personal property embezzled has a value of \$100,000.00 or more, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$50,000.00 or 3 times the value of the money or property embezzled, whichever is greater, or both imprisonment and a fine.

(8) Except as otherwise provided in this subsection, the values of money or other personal property

embezzled in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property embezzled. If the scheme or course of conduct is directed against only 1 person, governmental entity within this state, or other legal entity, no time limit applies to aggregation under this subsection.

(9) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions must be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(10) In a prosecution under this section, the failure, neglect, or refusal of the agent, servant, employee, trustee, bailee, or custodian to pay, deliver, or refund to his or her principal the money or property entrusted to his or her care upon demand is prima facie proof of intent to embezzle.

(11) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions must not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(12) The court may order a term of imprisonment imposed for a felony violation of this section to be served consecutively to any term of imprisonment imposed for any other criminal offense if the victim of the violation of this section was any of the following:

- (a) A nonprofit corporation or charitable organization under federal law or the laws of this state.
- (b) A person 60 years of age or older.
- (c) A vulnerable adult as defined in section 174a.

(13) As used in this section:

(a) "Cryptocurrency" means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and that operates independently of a central bank.

(b) "Money or other personal property" includes cryptocurrency.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.174;—Am. 1957, Act 69, Eff. Sept. 27, 1957;—Am. 1998, Act 312, Eff. Jan. 1, 1999;—Am. 2006, Act 573, Eff. Mar. 30, 2007;—Am. 2019, Act 173, Eff. Mar. 19, 2020.

Former law: See sections 1 and 2 of Act 48 of 1927, being CL 1929, §§ 16980 and 16981.

750.174a Vulnerable adult; prohibited conduct; violation; penalty; enhanced sentence; exceptions; consecutive sentence; definitions; report by office of services to the aging to department of human services.

Sec. 174a. (1) A person shall not through fraud, deceit, misrepresentation, coercion, or unjust enrichment obtain or use or attempt to obtain or use a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult is a vulnerable adult.

(2) If the money or property used or obtained, or attempted to be used or obtained, has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section.

(4) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting

to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$20,000.00 or more but less than \$50,000.00.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$15,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$50,000.00 or more but less than \$100,000.00.

(b) The person violates subsection (5)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(7) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$50,000.00 or 3 times the value of the money or property used or obtained or attempted to be used or obtained, whichever is greater, or both imprisonment and a fine:

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$100,000.00 or more.

(b) The person violates subsection (6)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(8) Except as otherwise provided in this subsection, the values of money or property used or obtained or attempted to be used or obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property used or obtained or attempted to be used or obtained. If the scheme or course of conduct is directed against only 1 person, no time limit applies to aggregation under this subsection.

(9) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction under section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

(11) A financial institution or a broker or a director, officer, employee, or agent of a financial institution or broker is not in violation of this section while performing duties in the normal course of business of a financial institution or broker or a director, officer, employee, or agent of a financial institution or broker.

(13) The court may order a sentence imposed for a violation of subsection (4), (5), (6), or (7) to be served consecutively to any other sentence imposed for a violation of this section.

(14) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law the person commits while violating this section.

(15) As used in this section:

(a) "Broker" means that term as defined in section 8102 of the uniform commercial code, 1962 PA 174, MCL 440.8102.

(b) "Financial institution" means a bank, credit union, saving bank, or a savings and loan chartered under state or federal law or an affiliate of a bank, credit union, saving bank, or savings and loan chartered under state or federal law.

(c) "Vulnerable adult" means that term as defined in section 145m, whether or not the individual has been

determined by the court to be incapacitated.

(16) If the office of services to the aging becomes aware of a violation of this section, the office of services to the aging shall promptly report the violation to the department of human services.

History: Add. 2000, Act 222, Eff. Sept. 25, 2000;—Am. 2004, Act 255, Eff. Sept. 1, 2004;—Am. 2012, Act 172, Imd. Eff. June 19, 2012;—Am. 2013, Act 34, Imd. Eff. May 21, 2013.

750.175 Embezzlement by public officer, agent or servant; penalty.

Sec. 175. Embezzlement by public officer, his agent, etc.—Any person holding any public office in this state, or the agent or servant of any such person, who knowingly and unlawfully appropriates to his own use, or to the use of any other person, the money or property received by him in his official capacity or employment, of the value of 50 dollars or upwards, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 10 years or by fine of not more than 5,000 dollars.

In any prosecution under this section the failure, neglect or refusal of any public officer to pay over and deliver to his successor all moneys and property which should be in his hands as such officer, shall be prima facie evidence of an offense against the provisions of this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.175.

Former law: See section 1 of Act 186 of 1929, being CL 1929, § 16985.

750.176 Embezzlement by administrator, executor or guardian; penalty.

Sec. 176. Embezzlement by administrator, executor or guardian—Any general or special administrator or any executor or guardian, who has been appointed by a judge of probate and who has collected any goods, chattels, money or effects of the deceased or ward, and who has wilfully appropriated the same to his own use and who has been ordered by the judge of probate forthwith to deliver to his successor in trust, ward or any person lawfully entitled thereto, all the goods, chattels, money or effects of the deceased or ward in his hands, and who shall wilfully omit, neglect or refuse for 60 days to obey said orders, shall be deemed to have committed the crime of embezzlement, and shall be guilty of a felony, punishable by imprisonment in the state prison for not more than 10 years, or by fine not more than 5,000 dollars: Provided, That in case such order shall be appealed from, said period of 60 days shall be reckoned from the affirmance of the order in the circuit or supreme court.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.176.

Former law: See section 1 of Act 208 of 1889, being How., § 9191a; CL 1897, § 11610; CL 1915, § 15375; CL 1929, § 16983; and Act 51 of 1895.

750.177 Embezzlement by chattel mortgagor, vendee or lessee; penalty; enhanced sentence based on prior convictions.

Sec. 177. (1) A person shall not embezzle or fraudulently remove, conceal, or dispose of any personal property held by him or her subject to a chattel mortgage or written instrument intended to operate as a chattel mortgage, a lease or written instrument intended to operate as a lease, or a contract to purchase not yet fulfilled with intent to injure or defraud the mortgagee, lessor, or vendor under the contract or any assignee of the mortgagee, lessor, or vendor.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property embezzled, removed, concealed, or disposed of has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine.

(6) Except as otherwise provided in this subsection, the values of property embezzled, removed, concealed, or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property embezzled, removed, concealed, or disposed of. If the scheme or course of conduct is directed against only 1 mortgagee, lessor, or vendor, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.177;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 1 of Act 179 of 1927, being CL 1929, § 16977.

750.178 Embezzlement of chattel mortgage, lease, or contract property by others; violation; penalty; enhanced sentence based on prior convictions.

Sec. 178. (1) A person shall not embezzle or fraudulently remove, conceal, or dispose of any personal property that has been mortgaged, leased, or purchased under a contract to purchase not yet fulfilled by another person knowing the personal property has been mortgaged, leased, or purchased and with the intent to injure or defraud the mortgagee, lessor, or vendor under the contract, or any assignee of the mortgagee, lessor, or vendor.

(2) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$20,000.00 or more.

(b) The person violates subsection (3)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(3) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (4)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (4)(b) or (5).

(4) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine:

(a) The property embezzled, removed, concealed, or disposed of has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (5) and has 1 or more prior convictions for committing or attempting to

commit an offense under this section or a local ordinance substantially corresponding to this section.

(5) If the property embezzled, removed, concealed, or disposed of has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the property embezzled, removed, concealed, or disposed of, whichever is greater, or both imprisonment and a fine.

(6) Except as otherwise provided in this subsection, the values of property embezzled, removed, concealed, or disposed of in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of property embezzled, removed, concealed, or disposed of. If the scheme or course of conduct is directed against only 1 mortgagee, lessor, or vendor, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

- (a) A copy of the judgment of conviction.
- (b) A transcript of a prior trial, plea-taking, or sentencing.
- (c) Information contained in a presentence report.
- (d) The defendant's statement.

(8) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.178;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 2 of Act 179 of 1927, being CL 1929, § 16978.

750.179 Repealed. 2002, Act 294, Imd. Eff. May 9, 2002.

Compiler's note: The repealed section pertained to embezzlement of railroad passenger tickets.

750.180 Embezzlement in bank, deposit, trust company, or credit union; penalty.

Sec. 180. Any president, director, secretary, cashier, treasurer or other officer, teller, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator of any bank, trust company, credit union or safe or safety and collateral deposit company, who embezzles, abstracts or wilfully misapplies any of the moneys, funds, credits or property of the bank, trust company, credit union or safe or safety and collateral deposit company, whether owned by it or held in trust, or who, without authority of the directors or proper officers, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment or decree, or who makes any false entry in any book, report or statement of the bank, trust company, credit union or safe or safety and collateral deposit company with intent in either case to injure or defraud the bank, trust company, credit union or safe or safety and collateral deposit company or any company, corporation or person or to deceive any officer of the bank, trust company, credit union or safe or safety and collateral deposit company, or any agent, receiver or conservator, or agent or employee of such receiver or conservator appointed to examine the affairs of such bank, trust company, credit union or safe or safety and collateral deposit company; and any person who with like intent aids or abets any officer, clerk, agent, receiver or conservator, or agent or employee of such receiver or conservator, in violation of this section or who shall issue or cause to be issued or put in circulation, any bill, note or other evidence of debt to circulate as money, shall be guilty of a felony, punishable by imprisonment in the state prison not more than 20 years.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1937, Act 164, Imd. Eff. July 9, 1937;—CL 1948, 750.180;—Am. 1960, Act 31, Eff. Aug. 17, 1960.

Former law: See section 66 of Act 66 of 1929, being CL 1929, § 11963; and section 41 of Act 67 of 1929, being CL 1929, § 12037.

750.181 Embezzlement of property belonging to person and part owner; violation; penalty; enhanced sentence based on prior convictions.

Sec. 181. (1) An agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person who receives or collects in any manner money or other personal property that is partly the property of another person, governmental entity within this state, or other legal entity and partly the property of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person shall not embezzle,

fraudulently dispose of, convert to his or her own use, or take or secrete with intent to embezzle or convert to his or her own use the money or personal property without the consent of the part owner of the money or personal property.

(2) If the money or personal property embezzled, disposed of, converted, taken, or secreted has a value of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine.

(3) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$200.00 or more but less than \$1,000.00.

(b) The person violates subsection (2) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(4) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$1,000.00 or more but less than \$20,000.00.

(b) The person violates subsection (3)(a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(5) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the value of the money or property embezzled, disposed of, converted, taken, or secreted, whichever is greater, or both imprisonment and a fine:

(a) The money or personal property embezzled, disposed of, converted, taken, or secreted has a value of \$20,000.00 or more.

(b) The person violates subsection (4)(a) and has 2 or more prior convictions for committing or attempting to commit an offense under this section. For purposes of this subdivision, however, a prior conviction does not include a conviction for a violation or attempted violation of subsection (2) or (3)(b).

(6) Except as otherwise provided in this subsection, the values of money or property embezzled, disposed of, converted, taken, or secreted in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property embezzled, disposed of, converted, taken, or secreted. If the scheme or course of conduct is directed against only 1 person, governmental entity within this state, or other legal entity, no time limit applies to aggregation under this subsection.

(7) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(8) In a prosecution under this section, it is not a defense that the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person was entitled to a compensation out of the money or personal property as compensation for collecting or receiving it for its owner, but it is not embezzlement by the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to retain his or her reasonable collection fee on the collection or any other valid interest he or she has in the money or personal property.

(9) In a prosecution under this section, the failure, neglect, or refusal of the agent, servant, employee, trustee, bailee, custodian, attorney-at-law, collector, or other person to pay, deliver, or refund to the proper person the money or personal property entrusted to his or her care, upon demand, is prima facie proof of intent to embezzle.

(10) If the sentence for a conviction under this section is enhanced by 1 or more prior convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10,

11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.181;—Am. 1959, Act 119, Eff. Mar. 19, 1960;—Am. 1998, Act 312, Eff. Jan. 1, 1999.

Former law: See section 55 of Ch. 154 of R.S. 1846, being How., § 9176a; CL 1897, § 11591; CL 1915, § 15336; CL 1929, § 16932; Act 110 of 1885; and Act 114 of 1897.

750.182 Embezzlement by warehouseman or forwarder of property receipted for.

Sec. 182. Embezzlement or conversion by warehouseman or forwarder of property receipted for—Any warehouseman or forwarder, or other person who shall have issued a receipt or certificate for flour, wheat, pot or pearl ashes, or any grain, produce or thing of value, or shall receive property on deposit or for sale on a specific contract or understanding, and shall, after issuing said receipt or certificate or receiving such property, embezzle, dispose of or convert to his own use, such property or the moneys received on the sale of such property, contrary to such receipt or certificate, or to the previous contract or understanding, shall be guilty of a felony.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.182.

Former law: See section 37 of Ch. 154 of R.S. 1846, being CL 1857, § 5781; CL 1871, § 7588; How., § 9159; CL 1897, § 11573; CL 1915, § 15318; CL 1929, § 16914; and Act 270 of 1881.

750.182a Falsification of school records; penalty; suspension of teacher's certificate.

Sec. 182a. Any officer or employee of a school district who shall wilfully falsify any record required to be kept under the provisions of Act No. 26 of the Public Acts of the First Extra Session of 1948, as amended, being sections 388.1 to 388.41, inclusive, of the Compiled Laws of 1948, or any other school law of this state, having a bearing on school aid, shall be guilty of a misdemeanor, punishable by a fine of not more than \$2,500.00 or imprisonment in state prison for not more than 2 years, or both, in the discretion of the court. The teacher's certificate of any person who shall be convicted of wilfully falsifying any such record shall be suspended for a period of 5 years and for such additional period as the superintendent of public instruction may determine.

History: Add. 1953, Act 90, Imd. Eff. May 19, 1953.