

No. 83

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1988

—●—

ENROLLED

Committee Substitute for
SENATE BILL NO. 83

(By Senator *Kaufman*)

—●—

PASSED March 9, 1988

In Effect 90 days from Passage



***ENROLLED**
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 83

(SENATOR KAUFMAN, *original sponsor*)

[Passed March 9, 1988; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-four, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to defining the crime of theft of services; providing that fraudulently stopping payment on a check, draft or order for payment for services performed shall be included within the crime of theft of services and defining penalty therefor.

Be it enacted by the Legislature of West Virginia:

That section twenty-four, article three, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-24. Obtaining money, property and services by false pretenses; disposing of property to defraud creditors; penalties.

- 1 (a) If any person obtains from another by any false
- 2 pretense, token or representation, with intent to defraud,
- 3 money, goods or other property which may be the subject of
- 4 larceny, or if he obtain from another any money, goods or

5 other property, which may be the subject of larceny, on
6 credit, by representing that there is money due him or to
7 become due him, and shall assign his claim for such money
8 in writing to the person from whom he shall obtain such
9 money, goods or other property, and shall afterwards
10 collect the same without the consent of such assignee, with
11 intent to defraud, he shall, in either case, be guilty of
12 larceny and, if the value of the money, goods or other
13 property is two hundred dollars or more, such person is
14 guilty of a felony, and, upon conviction thereof, shall be
15 confined in a penitentiary not less than one nor more than
16 ten years, or, in the discretion of the court, be confined in
17 the county jail not more than one year and be fined not more
18 than five hundred dollars. If the value of the money, goods
19 or other property is less than two hundred dollars, such
20 person is guilty of a misdemeanor, and, upon conviction
21 thereof, shall be confined in the county jail not more than
22 one year or fined not more than five hundred dollars, or
23 both, in the discretion of the court. If any person obtain by
24 any false pretense, token or representation, with intent to
25 defraud, the signature of any other person to a writing, the
26 false making whereof would be forgery, such person is
27 guilty of a felony, and, upon conviction thereof, shall be
28 confined in the penitentiary not less than one nor more than
29 five years, or in the discretion of the court, be confined in
30 the county jail not more than one year and fined not more
31 than five hundred dollars. And any person who removes any
32 of his property out of any county with intent to prevent the
33 same from being levied upon by any execution, or who
34 secretes, assigns or conveys, or otherwise disposes of any of
35 his property with intent to defraud any creditor or prevent
36 such property being made liable for payment of his debts,
37 and any person who receives such property with such
38 intent, is guilty of a misdemeanor, and, upon conviction
39 thereof, shall be fined not less than twenty-five nor more
40 than one thousand dollars and be confined in the county jail
41 not more than one year. And when the property so removed,
42 secreted, concealed, assigned, conveyed, received or
43 otherwise disposed of, is worth fifty dollars or less, such
44 offense shall be tried by a magistrate in the mode prescribed
45 for the trial of other criminal offenses by a magistrate:
46 *Provided*, That upon conviction for such offense before a

47 magistrate the person so convicted shall be fined not more
48 than fifty dollars and confined in the county jail not more
49 than thirty days. But nothing in this section contained shall
50 prevent any creditor from proceeding against any such
51 fraudulent debtor as provided in article five, chapter thirty-
52 eight, and in article seven, chapter fifty-three of this code,
53 or of any other remedy in equity or at law now existing.

54 (b) If any person, firm or corporation obtain labor,
55 services or any other such thing of value from another by
56 any false pretense, token or representation, with intent to
57 defraud, that person, firm or corporation, is guilty of theft
58 of services and if the value of the labor, services or any other
59 such thing of value is two hundred dollars or more, is guilty
60 of a felony, and, upon conviction thereof, shall be confined
61 in a penitentiary not less than one nor more than ten years
62 or, in the discretion of the court, be confined in the county
63 jail not more than one year and be fined not more than five
64 hundred dollars. If the value of the labor, services or any
65 other such thing of value is less than two hundred dollars,
66 that person, firm or corporation is guilty of a misdemeanor,
67 and, upon conviction thereof, shall be confined in the
68 county jail not more than one year or fined not more than
69 five hundred dollars, or both, in the discretion of the court.

70 (c) Theft of services includes the obtaining of a stop
71 payment order on a check, draft or order for payment of
72 money owed for services performed in good faith and in
73 substantial compliance with a written or oral contract for
74 services with the fraudulent intent to permanently deprive
75 the provider of such labor, services or other such thing of
76 value of the payment represented by such check, draft or
77 order. Notwithstanding the penalties set forth elsewhere in
78 this section, any person, firm or corporation violating the
79 provisions of this subsection is guilty of a misdemeanor,
80 and, upon conviction thereof, shall be fined not more than
81 two times the face value of the check, draft or order.

82 (d) Imposition of any penalty under this section does not
83 bar or otherwise affect adversely any right or liability to
84 damages, forfeiture or other civil remedy arising from any
85 or all elements of the criminal offense.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within *approx* this the *17th*
day of *March*, 1988.

[Signature]
Governor



PRESENTED TO THE

GOVERNOR

Date 3/15/88

Time 3:35 p.m.

RECEIVED

1988 MAR 31 AM 10:49

OFFICE OF THE ATTORNEY GENERAL
SECRETARY OF STATE