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HOUSE BILL 513

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CERTAIN CRIMINAL OFFENSES; AMENDING
SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-73 NMSA 1978 (being Laws 1965,
Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. FALSE STATEMENT AND FRAUD. --

A. Any individual or person who:

~~[A.]~~ (1) willfully makes and subscribes any
return, statement or other document that contains or is
verified by a written declaration that it is true and correct
as to every material matter and that the individual or person
does not believe to be true and correct as to every material
matter;

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1 ~~[B.]~~ (2) files any return electronically,
2 knowing the information in the return is not true and correct
3 as to every material matter; or

4 ~~[C.]~~ (3) with intent to evade or defeat the
5 payment or collection of any tax, or, knowing that the
6 probable consequences of the person's act will be to evade or
7 defeat the payment or collection of any tax, removes, conceals
8 or releases any property on which levy is authorized or that
9 is liable for payment of tax under the provisions of Section
10 7-1-61 NMSA 1978, or aids in accomplishing or causes the
11 accomplishment of any of the foregoing is guilty of ~~[a felony~~
12 ~~and, upon conviction thereof, shall be fined not more than~~
13 ~~five thousand dollars (\$5,000) or imprisoned not less than six~~
14 ~~months or more than three years, or both, together with costs~~
15 ~~of prosecution]~~ tax fraud.

16 B. Whoever commits tax fraud when the amount of
17 the tax owed is one hundred dollars (\$100) or less is guilty
18 of a petty misdemeanor and shall be sentenced pursuant to the
19 provisions of Section 31-19-1 NMSA 1978.

20 C. Whoever commits tax fraud when the amount of
21 the tax owed is over one hundred dollars (\$100) but not more
22 than one thousand dollars (\$1,000) is guilty of a misdemeanor
23 and shall be sentenced pursuant to the provisions of Section
24 31-19-1 NMSA 1978.

25 D. Whoever commits tax fraud when the amount of

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1 the tax owed is over one thousand dollars (\$1,000) but not
2 more than two thousand five hundred dollars (\$2,500) is guilty
3 of a fourth degree felony and shall be sentenced pursuant to
4 the provisions of Section 31-18-15 NMSA 1978.

5 E. Whoever commits tax fraud when the amount of
6 the tax owed is over two thousand five hundred dollars
7 (\$2,500) but not more than twenty thousand dollars (\$20,000)
8 is guilty of a third degree felony and shall be sentenced
9 pursuant to the provisions of Section 31-18-15 NMSA 1978.

10 F. Whoever commits tax fraud when the amount of
11 the tax owed is over twenty thousand dollars (\$20,000) is
12 guilty of a second degree felony and shall be sentenced
13 pursuant to the provisions of Section 31-18-15 NMSA 1978.

14 G. In addition to the fines imposed pursuant to
15 this section, a person who commits tax fraud shall pay the
16 costs of the prosecution of his case."

17 Section 2. Section 30-15-1 NMSA 1978 (being Laws 1963,
18 Chapter 303, Section 15-1) is amended to read:

19 "30-15-1. CRIMINAL DAMAGE TO PROPERTY. --

20 A. Criminal damage to property consists of
21 intentionally damaging any real or personal property of
22 another without the consent of the owner of the property.

23 B. Whoever commits criminal damage to property [~~is~~
24 ~~guilty of a petty misdemeanor, except that when the damage to~~
25 ~~the property amounts to more than one thousand dollars~~

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1 ~~(\$1,000), he is guilty of a fourth degree felony]~~ when the
2 damage to the property is one hundred dollars (\$100) or less
3 is guilty of a petty misdemeanor.

4 C. Whoever commits criminal damage to property
5 when the damage to the property is over one hundred dollars
6 (\$100) but not more than one thousand dollars (\$1,000) is
7 guilty of a misdemeanor.

8 D. Whoever commits criminal damage to property
9 when the damage to the property is over one thousand dollars
10 (\$1,000) but not more than two thousand five hundred dollars
11 (\$2,500) is guilty of a fourth degree felony.

12 E. Whoever commits criminal damage to property
13 when the damage to the property is over two thousand five
14 hundred dollars (\$2,500) but not more than twenty thousand
15 dollars (\$20,000) is guilty of a third degree felony.

16 F. Whoever commits criminal damage to property
17 when the damage to the property is over twenty thousand
18 dollars (\$20,000) is guilty of a second degree felony."

19 Section 3. Section 30-15-4 NMSA 1978 (being Laws 1963,
20 Chapter 303, Section 15-3, as amended) is amended to read:

21 "30-15-4. DESECRATION OF A CHURCH. --

22 A. Desecration of a church consists of willfully,
23 maliciously and intentionally defacing a church or any portion
24 ~~[thereof]~~ of it.

25 B. Whoever commits desecration of a church [is

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1 ~~guilty of a misdemeanor, except that when the damage to the~~
2 ~~church amounts to more than one thousand dollars (\$1,000), he~~
3 ~~is guilty of a fourth degree felony]~~ when the damage to the
4 church is one hundred dollars (\$100) or less is guilty of a
5 petty misdemeanor.

6 C. Whoever commits desecration of a church when
7 the damage to the church is over one hundred dollars (\$100)
8 but not more than one thousand dollars (\$1,000) is guilty of a
9 misdemeanor.

10 D. Whoever commits desecration of a church when
11 the damage to the church is over one thousand dollars (\$1,000)
12 but not more than two thousand five hundred dollars (\$2,500)
13 is guilty of a fourth degree felony.

14 E. Whoever commits desecration of a church when
15 the damage to the church is over two thousand five hundred
16 dollars (\$2,500) but not more than twenty thousand dollars
17 (\$20,000) is guilty of a third degree felony.

18 F. Whoever commits desecration of a church when
19 the damage to the church is over twenty thousand dollars
20 (\$20,000) is guilty of a second degree felony."

21 Section 4. Section 30-16-1 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-1, as amended) is amended to read:

23 "30-16-1. LARCENY. --

24 A. Larceny consists of the stealing of anything of
25 value which belongs to another.

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1 B. Whoever commits larceny when the value of the
2 property stolen is one hundred dollars (\$100) or less is
3 guilty of a petty misdemeanor.

4 C. Whoever commits larceny when the value of the
5 property stolen is over one hundred dollars (\$100) but not
6 more than [~~two hundred fifty dollars (\$250)~~] one thousand
7 dollars (\$1,000) is guilty of a misdemeanor.

8 D. Whoever commits larceny when the value of the
9 property stolen is over [~~two hundred fifty dollars (\$250)~~] one
10 thousand dollars (\$1,000) but not more than two thousand five
11 hundred dollars (\$2,500) is guilty of a fourth degree felony.

12 E. Whoever commits larceny when the value of the
13 property stolen is over two thousand five hundred dollars
14 (\$2,500) but not more than twenty thousand dollars (\$20,000)
15 is guilty of a third degree felony.

16 F. Whoever commits larceny when the value of the
17 property stolen is over twenty thousand dollars (\$20,000) is
18 guilty of a second degree felony.

19 G. Whoever commits larceny when the property of
20 value stolen is livestock is guilty of a third degree felony
21 regardless of its value.

22 H. Whoever commits larceny when the property of
23 value stolen is a firearm is guilty of a fourth degree felony
24 when its value is less than two thousand five hundred dollars
25 (\$2,500). "

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[bracketed material] = delete

1 Section 5. Section 30-16-6 NMSA 1978 (being Laws 1963,
2 Chapter 303, Section 16-6, as amended) is amended to read:

3 "30-16-6. FRAUD. --

4 A. Fraud consists of the intentional
5 misappropriation or taking of anything of value which belongs
6 to another by means of fraudulent conduct, practices or
7 representations.

8 B. Whoever commits fraud when the value of the
9 property misappropriated or taken is one hundred dollars
10 (\$100) or less is guilty of a petty misdemeanor.

11 C. Whoever commits fraud when the value of the
12 property misappropriated or taken is over one hundred dollars
13 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
14 one thousand dollars (\$1,000) is guilty of a misdemeanor.

15 D. Whoever commits fraud when the value of the
16 property misappropriated or taken is over [~~two hundred fifty~~
17 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
18 than [~~twenty-five~~] two thousand five hundred dollars (\$2,500)
19 is guilty of a fourth degree felony.

20 [~~Whoever commits fraud when the property misappropriated~~
21 ~~or taken is a firearm is guilty of a fourth degree felony.~~]

22 E. Whoever commits fraud when the value of the
23 property misappropriated or taken is over [~~twenty-five~~] two
24 thousand five hundred dollars (\$2,500) but not more than
25 twenty thousand dollars (\$20,000) is guilty of a third degree

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1 felony.

2 F. Whoever commits fraud when the value of the
3 property misappropriated or taken exceeds twenty thousand
4 dollars (\$20,000) is guilty of a second degree felony.

5 G. Whoever commits fraud when the property
6 misappropriated or taken is a firearm is guilty of a fourth
7 degree felony when its value is less than two thousand five
8 hundred dollars (\$2,500)."

9 Section 6. Section 30-16-7 NMSA 1978 (being Laws 1971,
10 Chapter 282, Section 1, as amended) is amended to read:

11 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR
12 WIC CHECKS. --

13 A. Unlawful dealing in federal food coupons or WIC
14 checks consists of a person buying, selling, trading,
15 bartering or possessing food coupons or WIC checks issued by
16 the United States department of agriculture with the intent to
17 obtain an economic benefit to which he is not entitled under
18 the rules and regulations of the human services department
19 pertaining to the food stamp program or of the [~~health and~~
20 ~~environment~~] department of health pertaining to the special
21 supplemental food program for women, infants and children.

22 B. Whoever commits unlawful dealing in federal
23 food coupons or WIC checks when the value of the food coupons
24 or WIC checks involved is one hundred dollars (\$100) or less
25 is guilty of a petty misdemeanor.

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1 C. Whoever commits unlawful dealing in federal
2 food coupons or WIC checks when the value of the food coupons
3 or WIC checks involved is over one hundred dollars (\$100) but
4 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
5 dollars (\$1,000) is guilty of a misdemeanor.

6 D. Whoever commits unlawful dealing in federal
7 food coupons or WIC checks when the value of the food coupons
8 or WIC checks involved is over [~~two hundred fifty dollars~~
9 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than
10 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is
11 guilty of a fourth degree felony.

12 E. Whoever commits unlawful dealing in federal
13 food coupons or WIC checks when the value of the food coupons
14 or WIC checks involved is over [~~twenty-five~~] two thousand five
15 hundred dollars (\$2,500) but not more than twenty thousand
16 dollars (\$20,000) is guilty of a third degree felony.

17 F. Whoever commits unlawful dealing in federal
18 food coupons or WIC checks when the value of the food coupons
19 or WIC checks involved exceeds twenty thousand dollars
20 (\$20,000) is guilty of a second degree felony."

21 Section 7. Section 30-16-8 NMSA 1978 (being Laws 1963,
22 Chapter 303, Section 16-7, as amended) is amended to read:

23 "30-16-8. EMBEZZLEMENT. --

24 A. Embezzlement consists of the embezzling or
25 converting to his own use of anything of value, with which he

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1 has been entrusted, with fraudulent intent to deprive the
2 owner thereof. Each separate incident of embezzlement or
3 conversion constitutes a separate and distinct offense.

4 B. Whoever commits embezzlement when the value of
5 the thing embezzled or converted is one hundred dollars (\$100)
6 or less is guilty of a petty misdemeanor.

7 C. Whoever commits embezzlement when the value of
8 the thing embezzled or converted is over one hundred dollars
9 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
10 one thousand dollars (\$1,000) is guilty of a misdemeanor.

11 D. Whoever commits embezzlement when the value of
12 the thing embezzled or converted is over [~~two hundred fifty~~
13 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
14 than two thousand five hundred dollars (\$2,500) is guilty of a
15 fourth degree felony.

16 E. Whoever commits embezzlement when the value of
17 the thing embezzled or converted is over two thousand five
18 hundred dollars (\$2,500) but not more than twenty thousand
19 dollars (\$20,000) is guilty of a third degree felony.

20 F. Whoever commits embezzlement when the value of
21 the thing embezzled or converted exceeds twenty thousand
22 dollars (\$20,000) is guilty of a second degree felony."

23 Section 8. Section 30-16-11 NMSA 1978 (being Laws 1963,
24 Chapter 303, Section 16-11, as amended) is amended to read:

25 "30-16-11. RECEIVING STOLEN PROPERTY-- PENALTIES. --

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1 A. Receiving stolen property means intentionally
2 to receive, retain or dispose of stolen property knowing that
3 it has been stolen or believing it has been stolen, unless the
4 property is received, retained or disposed of with intent to
5 restore it to the owner.

6 B. The requisite knowledge or belief that property
7 has been stolen is presumed in the case of a dealer who:

8 (1) is found in possession or control of
9 property stolen from two or more persons on separate
10 occasions;

11 (2) acquires stolen property for a
12 consideration [~~which~~] that the dealer knows is far below the
13 property's reasonable value. A dealer shall be presumed to
14 know the fair market value of the property in which he deals;
15 or

16 (3) is found in possession or control of five
17 or more items of property stolen within one year prior to the
18 time of the incident charged pursuant to this section.

19 C. For the purposes of this section:

20 (1) "dealer" means a person in the business
21 of buying or selling goods or commercial merchandise; and

22 (2) "stolen property" means any property
23 acquired by theft, larceny, fraud, embezzlement, robbery or
24 armed robbery.

25 D. Whoever commits receiving stolen property when

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1 the value of the property is one hundred dollars (\$100) or
2 less is guilty of a petty misdemeanor.

3 E. Whoever commits receiving stolen property when
4 the value of the property is over one hundred dollars (\$100)
5 but not more than [~~two hundred fifty dollars (\$250)~~] one
6 thousand dollars (\$1,000) is guilty of a misdemeanor.

7 F. Whoever commits receiving stolen property when
8 the value of the property is over [~~two hundred fifty dollars~~
9 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
10 thousand five hundred dollars (\$2,500) is guilty of a fourth
11 degree felony.

12 G. Whoever commits receiving stolen property when
13 the value of the property is over two thousand five hundred
14 dollars (\$2,500) but not more than twenty thousand dollars
15 (\$20,000) is guilty of a third degree felony.

16 H. Whoever commits receiving stolen property when
17 the value of the property exceeds twenty thousand dollars
18 (\$20,000) is guilty of a second degree felony.

19 I. Whoever commits receiving stolen property when
20 the property is a firearm is guilty of a fourth degree felony,
21 when its value is less than two thousand five hundred dollars
22 (\$2,500). "

23 Section 9. Section 30-16-13 NMSA 1978 (being Laws 1963,
24 Chapter 303, Section 16-13) is amended to read:

25 "30-16-13. CHEATING A MACHINE OR DEVICE. --

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1 A. Cheating a machine or device consists of any
2 person, with intent to defraud, attempting to operate or
3 causing to be operated any automatic vending machine, parking
4 meter, coin-box telephone or any machine or ~~[receptable]~~
5 receptacle designed to receive lawful money of the United
6 States in connection with the sale, use or enjoyment of
7 property or service by means of any slug or by any false,
8 counterfeited, mutilated, sweated or foreign coin or by any
9 means, method, trick or device.

10 B. Whoever commits cheating a machine or device
11 when the value of the property or service is one hundred
12 dollars (\$100) or less is guilty of a petty misdemeanor.

13 C. Whoever commits cheating a machine or device
14 when the value of the property or service is over one hundred
15 dollars (\$100) but not more than one thousand dollars (\$1,000)
16 is guilty of a misdemeanor.

17 D. Whoever commits cheating a machine or device
18 when the value of the property or service is over one thousand
19 dollars (\$1,000) but not more than two thousand five hundred
20 dollars (\$2,500) is guilty of a fourth degree felony.

21 E. Whoever commits cheating a machine or device
22 when the value of the property or service is over two thousand
23 five hundred dollars (\$2,500) but not more than twenty
24 thousand dollars (\$20,000) is guilty of a third degree felony.

25 F. Whoever commits cheating a machine or device

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1 when the value of the property or service is over twenty
2 thousand dollars (\$20,000) is guilty of a second degree
3 felony. "

4 Section 10. Section 30-16-16 NMSA 1978 (being Laws 1963,
5 Chapter 303, Section 16-16, as amended) is amended to read:

6 "30-16-16. FALSELY OBTAINING SERVICES OR
7 ACCOMMODATIONS-- PROBABLE CAUSE-- IMMUNITY-- PENALTY. --

8 A. Falsely obtaining services or accommodations
9 consists of any person obtaining service, food, entertainment
10 or accommodations without paying with the intent to cheat or
11 defraud the owner or person supplying such service, food,
12 entertainment or accommodations.

13 B. Any law enforcement officer may arrest without
14 warrant any person he has probable cause for believing has
15 committed the crime of falsely obtaining services or
16 accommodations as defined in this section. Any merchant,
17 owner or proprietor who causes such an arrest shall not be
18 criminally or civilly liable if he has actual knowledge that
19 the person so arrested has committed the crime of falsely
20 obtaining services or accommodations.

21 C. Whoever commits falsely obtaining services or
22 accommodations when the value of the service, food,
23 entertainment or accommodations furnished is:

24 (1) less than one hundred dollars (\$100) is
25 guilty of a petty misdemeanor;

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1 (2) more than one hundred dollars (\$100) but
2 not more than [~~two hundred fifty dollars (\$250)~~] one thousand
3 dollars (\$1,000) is guilty of a misdemeanor;

4 (3) more than [~~two hundred fifty dollars~~
5 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
6 thousand five hundred dollars (\$2,500) is guilty of a fourth
7 degree felony;

8 (4) more than two thousand five hundred
9 dollars (\$2,500) but not more than twenty thousand dollars
10 (\$20,000) is guilty of a third degree felony; and

11 (5) more than twenty thousand dollars
12 (\$20,000) is guilty of a second degree felony. "

13 Section 11. Section 30-16-18 NMSA 1978 (being Laws 1963,
14 Chapter 303, Section 16-18, as amended) is amended to read:

15 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR
16 CONCEALING OF ENCUMBERED PROPERTY. --

17 A. Improper sale, disposal, removal or concealing
18 of encumbered property consists of any person knowingly, and
19 with intent to defraud, selling, transferring, removing or
20 concealing, or in any manner disposing of, any personal
21 property upon which a security interest, chattel mortgage or
22 other lien or encumbrance has attached or been retained,
23 without the written consent of the holder of such security
24 interest, chattel mortgage, conditional sales contract, lien
25 or encumbrance.

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1 B. Any broker, dealer or any agent, buyer or
2 seller who receives any remuneration whatsoever for transfer
3 of equity or arranges the assumption of any loan on a mobile
4 home or recreational vehicle [~~which~~] that has a lien filed
5 upon such vehicle with the motor vehicle division of the
6 [~~transportation~~] taxation and revenue department [~~must~~] shall
7 obtain written consent from the lien holder approving
8 transferee's assumption of transferor's obligation to the lien
9 holder within ten days of [~~such~~] the transaction before [~~such~~]
10 the transaction is entered into, provided that the lien
11 holder's written consent shall not unreasonably be withheld.
12 Failure to do so constitutes an improper sale, disposal or
13 removal or [~~concealment~~] concealing of encumbered property,
14 which is punishable as a petty misdemeanor.

15 C. Whoever commits improper sale, disposal,
16 removal or concealing of encumbered property [~~where~~] when the
17 value of [~~such~~] the property is one hundred dollars (\$100) or
18 less is guilty of a petty misdemeanor.

19 D. Whoever commits improper sale, disposal,
20 removal or concealing of encumbered property [~~where~~] when the
21 value of [~~such~~] the property is over one hundred dollars
22 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
23 one thousand dollars (\$1,000) is guilty of a misdemeanor.

24 E. Whoever commits improper sale, disposal,
25 removal or concealing of encumbered property [~~where~~] when the

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1 value of [~~such~~] the property is over [~~two hundred fifty~~
2 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
3 than [~~twenty-five~~] two thousand five hundred dollars (\$2,500)
4 is guilty of a fourth degree felony.

5 F. Whoever commits improper sale, disposal,
6 removal or concealing of encumbered property [~~where~~] when the
7 value of [~~such~~] the property is over [~~twenty-five~~] two
8 thousand five hundred dollars (\$2,500) but not more than
9 twenty thousand dollars (\$20,000) is guilty of a third degree
10 felony.

11 G. Whoever commits improper sale, disposal,
12 removal or concealing of encumbered property [~~where~~] when the
13 value of [~~such~~] the property exceeds twenty [~~thousand~~] thousand
14 dollars (\$20,000) is guilty of a second degree felony."

15 Section 12. Section 30-16-20 NMSA 1978 (being Laws 1965,
16 Chapter 5, Section 2, as amended) is amended to read:

17 "30-16-20. CRIME OF SHOPLIFTING CREATED. --

18 A. Shoplifting consists of any one or more of the
19 following acts:

20 (1) willfully taking possession of any
21 merchandise with the intention of converting it without paying
22 for it;

23 (2) willfully concealing any merchandise with
24 the intention of converting it without paying for it;

25 (3) willfully altering any label, price tag

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1 or marking upon any merchandise with the intention of
2 depriving the merchant of all or some part of the value of it;
3 or

4 (4) willfully transferring any merchandise
5 from the container in or on which it is displayed to any other
6 container with the intention of depriving the merchant of all
7 or some part of the value of it.

8 B. Whoever commits shoplifting when the value of
9 the merchandise shoplifted:

10 (1) is one hundred dollars (\$100) or less is
11 guilty of a petty misdemeanor;

12 (2) is more than one hundred dollars (\$100)
13 but not more than [~~two hundred fifty dollars (\$250)~~] one
14 thousand dollars (\$1,000) is guilty of a misdemeanor;

15 (3) is more than [~~two hundred fifty dollars~~
16 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
17 thousand five hundred dollars (\$2,500) is guilty of a fourth
18 degree felony;

19 (4) is more than two thousand five hundred
20 dollars (\$2,500) but not more than twenty thousand dollars
21 (\$20,000) is guilty of a third degree felony; or

22 (5) is more than twenty thousand dollars
23 (\$20,000) is guilty of a second degree felony.

24 C. Any individual charged with a violation of this
25 section shall not be charged with a separate or additional

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1 offense arising out of the same transaction. "

2 Section 13. Section 30-16-33 NMSA 1978 (being Laws 1971,
3 Chapter 239, Section 9) is amended to read:

4 "30-16-33. FRAUDULENT USE OF A CREDIT [CARDS] CARD. --

5 A. ~~[A person is guilty of a fourth degree felony~~
6 ~~if, with intent to defraud, he uses to obtain anything of~~
7 ~~value]~~ Fraudulent use of a credit card consists of a person
8 obtaining anything of value, with intent to defraud, by using:

9 (1) a credit card obtained in violation of
10 Sections ~~[40A-16-24 through 40A-16-38 NMSA 1953; or]~~ 30-16-25
11 through 30-16-38 NMSA 1978;

12 (2) a credit card ~~[which]~~ that is invalid,
13 expired or revoked; ~~[or]~~

14 (3) a credit card while fraudulently
15 representing that he is the cardholder named on the credit
16 card or an authorized agent or representative of the
17 cardholder named on the credit card; or

18 (4) a credit card issued in the name of
19 another without the consent of the person to whom the card has
20 been issued.

21 ~~[B. If the value of all things of value obtained~~
22 ~~by any person from one or more merchants, an issuer or a~~
23 ~~participating party, in violation of this section exceeds~~
24 ~~three hundred dollars (\$300) in any consecutive six months~~
25 ~~period, then the offense of the violator is a third degree~~

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1 ~~felony.]~~

2 B. Whoever commits fraudulent use of a credit card
3 when the value of the property or service is one hundred
4 dollars (\$100) or less is guilty of a petty misdemeanor.

5 C. Whoever commits fraudulent use of a credit card
6 when the value of the property or service is over one hundred
7 dollars (\$100) but not more than one thousand dollars (\$1,000)
8 is guilty of a misdemeanor.

9 D. Whoever commits fraudulent use of a credit card
10 when the value of the property or service is over one thousand
11 dollars (\$1,000) but not more than two thousand five hundred
12 dollars (\$2,500) is guilty of a fourth degree felony.

13 E. Whoever commits fraudulent use of a credit card
14 when the value of the property or service is over two thousand
15 five hundred dollars (\$2,500) but not more than twenty
16 thousand dollars (\$20,000) is guilty of a third degree felony.

17 F. Whoever commits fraudulent use of a credit card
18 when the value of the property or service is over twenty
19 thousand dollars (\$20,000) is guilty of a second degree
20 felony. "

21 Section 14. Section 30-16-34 NMSA 1978 (being Laws 1971,
22 Chapter 239, Section 10) is amended to read:

23 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR
24 EMPLOYEES. --

25 A. Any merchant or the employee of any merchant

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1 ~~[is guilty of a fourth degree felony]~~ commits fraud if, with
2 intent to defraud, he furnishes or allows to be furnished
3 anything of value upon presentation of a credit card obtained
4 or retained in violation of Sections ~~[40A-16-24 through~~
5 ~~40A-16-38 NMSA 1953]~~ 30-16-25 through 30-16-38 NMSA 1978, or
6 fraudulently made or embossed or fraudulently signed or a
7 credit card ~~[which]~~ that he knows is invalid, expired or
8 revoked or a credit card presented by a person whom he knows
9 is not the cardholder named on the credit card or an
10 authorized agent or representative of the cardholder named on
11 the credit card. If the value of anything furnished by a
12 merchant, or by an employee of a merchant, in violation of
13 this section ~~[exceeds three hundred dollars (\$300), in any~~
14 ~~consecutive six months period, then the offense is a third~~
15 ~~degree felony]:~~

16 (1) is one hundred dollars (\$100) or less in
17 any consecutive six-month period, the offense is a petty
18 misdemeanor;

19 (2) is more than one hundred dollars (\$100)
20 but not more than one thousand dollars (\$1,000) in any
21 consecutive six-month period, the offense is a misdemeanor;

22 (3) is more than one thousand dollars
23 (\$1,000) but not more than two thousand five hundred dollars
24 (\$2,500) in any consecutive six-month period, the offense is a
25 fourth degree felony;

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1 (4) is more than two thousand five hundred
2 dollars (\$2,500) but not more than twenty thousand dollars
3 (\$20,000) in any consecutive six-month period, the offense is
4 a third degree felony; or

5 (5) is more than twenty thousand dollars
6 (\$20,000) in any consecutive six-month period, the offense is
7 a second degree felony.

8 B. Any merchant or the employee of any merchant
9 [~~is guilty of a fourth degree felony~~] commits fraud if, with
10 intent to defraud, he fails to furnish anything of value which
11 he represents in writing to the issuer or to a participating
12 party that he has furnished on a credit card or cards of the
13 issuer. If the difference between the value of anything
14 actually furnished to any person [~~or persons~~] and the value
15 represented by the merchant to the issuer or participating
16 party [~~exceeds three hundred dollars (\$300) in any consecutive~~
17 ~~six months period, then the offense is a third degree felony~~]:

18 (1) is one hundred dollars (\$100) or less in
19 any consecutive six-month period, the offense is a petty
20 misdemeanor;

21 (2) is more than one hundred dollars (\$100)
22 but not more than one thousand dollars (\$1,000) in any
23 consecutive six-month period, the offense is a misdemeanor;

24 (3) is more than one thousand dollars
25 (\$1,000) but not more than two thousand five hundred dollars

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1 (\$2,500) in any consecutive six-month period, the offense is a
2 fourth degree felony;

3 (4) is more than two thousand five hundred
4 dollars (\$2,500) but not more than twenty thousand dollars
5 (\$20,000) in any consecutive six-month period, the offense is
6 a third degree felony; or

7 (5) is more than twenty thousand dollars
8 (\$20,000) in any consecutive six-month period, the offense is
9 a second degree felony. "

10 Section 15. Section 30-16-36 NMSA 1978 (being Laws 1971,
11 Chapter 239, Section 12) is amended to read:

12 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
13 ACT.--Any person who receives the money, goods, services or
14 anything else of value obtained in violation of Section
15 [~~40A-16-33 NMSA 1953~~] 30-16-33 NMSA 1978 and who knows or has
16 reason to believe that it was so obtained violates this
17 section. The degree of the offense is determined as follows:

18 A. if the value of all things of value obtained
19 from any person [~~or persons~~] in violation of this section is
20 one hundred dollars (\$100) or less in any consecutive [~~six~~
21 ~~months~~] six-month period, then the offense is a petty
22 misdemeanor;

23 B. if the value of all things of value obtained
24 from any person [~~or persons~~] in violation of this section is
25 more than one hundred dollars (\$100) but [~~less than three~~

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1 ~~hundred dollars (\$300) in any consecutive six months period,~~
2 ~~then the offense is a fourth degree felony;~~

3 ~~C. if the value of all things of value obtained~~
4 ~~from any person or persons in violation of this section is~~
5 ~~three hundred dollars (\$300) or more in any consecutive six~~
6 ~~months period, then the offense is a third degree felony] not~~
7 ~~more than one thousand dollars (\$1,000) in any consecutive~~
8 ~~six-month period, then the offense is a misdemeanor;~~

9 C. if the value of all things of value obtained
10 from any person in violation of this section is more than one
11 thousand dollars (\$1,000) but not more than two thousand five
12 hundred dollars (\$2,500) in any consecutive six-month period,
13 then the offense is a fourth degree felony;

14 D. if the value of all things of value obtained
15 from any person in violation of this section is more than two
16 thousand five hundred dollars (\$2,500) but not more than
17 twenty thousand dollars (\$20,000) in any consecutive six-month
18 period, then the offense is a third degree felony; or

19 E. if the value of all things of value obtained
20 from any person in violation of this section is more than
21 twenty thousand dollars (\$20,000) in any consecutive six-month
22 period, then the offense is a second degree felony. "

23 Section 16. Section 30-16-39 NMSA 1978 (being Laws 1972,
24 Chapter 23, Section 1, as amended) is amended to read:

25 "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN

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1 POSSESSION OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL
2 PROPERTY--PENALTY. --Any person who rents or leases a vehicle
3 or other personal property and obtains or retains possession
4 of it by means of any false or fraudulent representation,
5 fraudulent concealment, false pretense or personation, trick,
6 artifice or device, including but not limited to a false
7 representation as to his name, residence, employment or
8 operator's license is guilty:

9 A. of a [~~fourth degree felony~~] petty misdemeanor
10 if the property [~~is a~~] or vehicle [~~or~~] has a value [~~in excess~~]
11 of one hundred dollars (\$100) or less;

12 B. of a [~~petty~~] misdemeanor if the property [~~is~~
13 ~~not a~~] or vehicle [~~and~~] has a value of over one hundred
14 dollars (\$100) [~~or less~~] but not more than one thousand
15 dollars (\$1,000);

16 C. of a fourth degree felony if the property or
17 vehicle has a value of over one thousand dollars (\$1,000) but
18 not more than two thousand five hundred dollars (\$2,500);

19 D. of a third degree felony if the property or
20 vehicle has a value of over two thousand five hundred dollars
21 (\$2,500) but not more than twenty thousand dollars (\$20,000);
22 and

23 E. of a second degree felony if the property or
24 vehicle has a value of over twenty thousand dollars
25 (\$20,000). "

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1 Section 17. Section 30-16-40 NMSA 1978 (being Laws 1973,
2 Chapter 154, Section 1, as amended) is amended to read:

3 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
4 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION. --

5 A. Any person who, after leasing a vehicle or
6 other personal property under a written agreement [~~which~~] that
7 provides for the return of the vehicle or personal property to
8 a particular place at a particular time and who, with intent
9 to defraud the lessor of the vehicle or personal property,
10 fails to return the vehicle or personal property to the place
11 within the time specified, is guilty of a:

12 ~~[(1) of a petty misdemeanor if the property~~
13 ~~is not a vehicle and has a value of one hundred dollars (\$100)~~
14 ~~or less;~~

15 ~~(2) of a fourth degree felony if the property~~
16 ~~is not a vehicle and has a value of more than one hundred~~
17 ~~dollars (\$100) but less than two thousand five hundred dollars~~
18 ~~(\$2,500);~~

19 ~~(3) of a fourth degree felony if the vehicle~~
20 ~~has a value of less than two thousand five hundred dollars~~
21 ~~(\$2,500); and~~

22 ~~(4) of a third degree felony if the property~~
23 ~~or vehicle has a value of two thousand five hundred dollars~~
24 ~~(\$2,500) or more]~~

25 (1) petty misdemeanor if the property or

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1 vehicle has a value of one hundred dollars (\$100) or less;

2 (2) misdemeanor if the property or vehicle
3 has a value of over one hundred dollars (\$100) but not more
4 than one thousand dollars (\$1,000);

5 (3) fourth degree felony if the property or
6 vehicle has a value of over one thousand dollars (\$1,000) but
7 not more than two thousand five hundred dollars (\$2,500);

8 (4) third degree felony if the property or
9 vehicle has a value of over two thousand five hundred dollars
10 (\$2,500) but not more than twenty thousand dollars (\$20,000);
11 and

12 (5) second degree felony if the property or
13 vehicle has a value of over twenty thousand dollars (\$20,000).

14 B. Failure of the lessee to return the vehicle or
15 personal property to the place specified within seventy-two
16 hours after mailing to him by certified mail at his address
17 shown on the leasing agreement a written demand to return the
18 vehicle or personal property shall raise a rebuttable
19 presumption that the failure to return the vehicle or personal
20 property was with intent to defraud. "

21 Section 18. Section 30-17-5 NMSA 1978 (being Laws 1970,
22 Chapter 39, Section 1) is amended to read:

23 "30-17-5. ARSON AND NEGLIGENT ARSON. --

24 A. Arson consists of maliciously or willfully
25 starting a fire or causing an explosion with the purpose of

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1 destroying or damaging any building, occupied structure or
2 property of another, or bridge, utility line, fence or sign;
3 or with the purpose of destroying or damaging any property,
4 whether the person's own or another's, to collect insurance
5 for such loss.

6 (1) Whoever commits arson when the value of
7 the thing destroyed or damaged is one hundred dollars (\$100)
8 or less is guilty of a petty misdemeanor.

9 (2) Whoever commits arson when the value of
10 the thing destroyed or damaged is over one hundred dollars
11 (\$100) but not more than one thousand dollars (\$1,000) is
12 guilty of a [~~fourth degree felony~~] misdemeanor.

13 (3) Whoever commits arson when the value of
14 the thing destroyed or damaged [~~exceeds one thousand dollars~~
15 ~~(\$1,000) is guilty of a third degree felony~~] is over one
16 thousand dollars (\$1,000) but not more than two thousand five
17 hundred dollars (\$2,500) is guilty of a fourth degree felony.

18 (4) Whoever commits arson when the value of
19 the thing destroyed or damaged is over two thousand five
20 hundred dollars (\$2,500) but not more than twenty thousand
21 dollars (\$20,000) is guilty of a third degree felony.

22 (5) Whoever commits arson when the value of
23 the thing destroyed or damaged is over twenty thousand dollars
24 (\$20,000) is guilty of a second degree felony.

25 B. Negligent arson consists of recklessly starting

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1 a fire or causing an explosion, whether on the person's
2 property or another's, and thereby directly causing the death
3 or bodily injury of another; or damaging or destroying a
4 building or occupied structure of another.

5 Whoever commits negligent arson is guilty of a fourth
6 degree felony.

7 C. As used in this section, "occupied structure"
8 includes a boat, trailer, car, airplane, structure or place
9 adapted for the transportation or storage of property or for
10 overnight accommodations of persons or for carrying on
11 business therein, whether or not a person is actually
12 present. "

13 Section 19. Section 30-33-13 NMSA 1978 (being Laws 1963,
14 Chapter 49, Section 2, as amended) is amended to read:

15 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE
16 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE-- CRIME TO
17 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR
18 CERTAIN PURPOSES-- PENALTY. --

19 A. It is unlawful for any person, with intent to
20 defraud any person, firm or corporation, to obtain or to
21 attempt to obtain any telecommunications service without
22 paying the lawful charge, in whole or in part, by any of the
23 following means:

24 (1) charging [~~such~~] the service to an
25 existing telephone number or credit card number without the

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1 authority of the subscriber thereto, or the legitimate holder
2 thereof;

3 (2) charging [~~such~~] the service to a
4 nonexistent, false, fictitious or counterfeit telephone number
5 or credit card number or to a suspended, terminated, expired,
6 canceled or revoked telephone number or credit card number;

7 (3) rearranging, tampering with or making
8 electrical, acoustical, induction or other connection with any
9 facilities or equipment;

10 (4) using a code, prearranged scheme or other
11 strategem or device whereby [~~said~~] the person in effect sends
12 or receives information; or

13 (5) using any other contrivance, device or
14 means to avoid payment of the lawful charges, in whole or in
15 part, for such service.

16 This subsection shall apply when [~~said telecommunication~~]
17 the telecommunications service either originates or
18 terminates, or both, in this state or when charges for [~~said~~]
19 the service would have been billable in normal course by the
20 public utility providing [~~such~~] the service in this state but
21 for the fact that [~~said~~] the service was obtained or attempted
22 to be obtained by one or more of the means set forth
23 [~~hereinabove~~] in this subsection.

24 Whoever violates this subsection when the charges for the
25 [~~telecommunication~~] telecommunications service obtained or

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1 attempted to be obtained are one hundred dollars (\$100) or
2 less is guilty of a petty misdemeanor.

3 Whoever violates this subsection when the charges for the
4 [~~telecommunication~~] telecommunications service obtained or
5 attempted to be obtained are more than one hundred dollars
6 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
7 one thousand dollars (\$1,000) is guilty of a misdemeanor.

8 Whoever violates this subsection when the charges for
9 the [~~telecommunication~~] telecommunications service obtained
10 or attempted to be obtained are more than [~~two hundred fifty~~
11 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
12 than [~~twenty-five~~] two thousand five hundred dollars (\$2,500)
13 is guilty of fourth degree felony.

14 Whoever violates this subsection when the charges for the
15 [~~telecommunication~~] telecommunications service obtained or
16 attempted to be obtained are more than [~~twenty-five~~] two
17 thousand five hundred dollars (\$2,500) but not more than
18 twenty thousand dollars (\$20,000) is guilty of a third degree
19 felony.

20 Whoever violates this subsection when the charges for the
21 [~~telecommunication~~] telecommunications service obtained or
22 attempted to be obtained exceed twenty thousand dollars
23 (\$20,000) is guilty of a second degree felony.

24 B. It is unlawful for any person under
25 circumstances evidencing an intent to use or employ any

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1 instrument, apparatus, equipment or device described in
2 Paragraph (1) of this subsection or to allow the same to be
3 used or employed for the purpose described in Paragraph (1) of
4 this subsection or knowing or having reason to believe that
5 the same is intended to be so used or that the plans and
6 instructions described in Paragraph (2) of this subsection are
7 intended to be used for making or assembling such instrument,
8 apparatus, equipment or device:

9 (1) to make or possess any instrument,
10 apparatus, equipment or device designed, adapted or ~~which~~
11 that can be used either:

12 (a) to obtain ~~[telecommunication]~~
13 telecommunications service in violation of Subsection A of
14 this section; or

15 (b) to conceal or to assist another to
16 conceal from any supplier of ~~[telecommunication]~~
17 telecommunications service or from any lawful authority the
18 existence or place of origin or of destination of any
19 ~~[telecommunication]~~ telecommunications service; or

20 (2) to sell, give or otherwise transfer to
21 another or to offer or advertise for sale any instrument,
22 apparatus, equipment or device described in Paragraph (1) of
23 this subsection or plans or instructions for making or
24 assembling the same.

25 Whoever violates this subsection is guilty of a

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1 misdemeanor, unless ~~[such]~~ the person has previously been
2 convicted of such crime or of an offense under the laws of
3 another state or of the United States ~~[which]~~ that would have
4 been an offense under this subsection if committed in this
5 state, in which case ~~[such]~~ the person is guilty of a fourth
6 degree felony. "

7 Section 20. Section 30-36-5 NMSA 1978 (being Laws 1965,
8 Chapter 114, Section 1) is amended to read:

9 "30-36-5. PENALTY. -- Any person violating Section
10 ~~[40-49-4 New Mexico Statutes Annotated, 1953 Compilation]~~
11 30-36-4 NMSA 1978 shall be punished as follows:

12 A. when the amount of the check, draft or order or
13 the total amount of the checks, drafts or orders ~~[are for more~~
14 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
15 ~~(\$25.00), imprisonment in the county jail for a term of not~~
16 ~~more than thirty days or a fine of not more than one hundred~~
17 ~~dollars (\$100), or both such imprisonment and fine]~~ is one
18 hundred dollars (\$100) or less, the person is guilty of a
19 petty misdemeanor;

20 B. when the amount of the check, draft or order or
21 the total amount of the checks, drafts or orders ~~[are for~~
22 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
23 ~~penitentiary for a term of not less than one year nor more~~
24 ~~than three years or the payment of a fine of not more than one~~
25 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~

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1 is over one hundred dollars (\$100) but not more than one
2 thousand dollars (\$1,000), the person is guilty of a
3 misdemeanor;

4 C. when the amount of the check, draft or order or
5 the total amount of the checks, drafts or orders is over one
6 thousand dollars (\$1,000) but not more than two thousand five
7 hundred dollars (\$2,500), the person is guilty of a fourth
8 degree felony;

9 D. when the amount of the check, draft or order or
10 the total amount of the checks, drafts or orders is over two
11 thousand five hundred dollars (\$2,500) but not more than
12 twenty thousand dollars (\$20,000), the person is guilty of a
13 third degree felony; and

14 E. when the amount of the check, draft or order or
15 the total amount of the checks, drafts or orders is over
16 twenty thousand dollars (\$20,000), the person is guilty of a
17 second degree felony."

18 Section 21. Section 30-40-1 NMSA 1978 (being Laws 1979,
19 Chapter 170, Section 1, as amended) is amended to read:

20 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF
21 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE. --

22 A. Failing to disclose facts or change of
23 circumstances to obtain public assistance consists of any
24 person knowingly failing to disclose any material facts known
25 to be necessary to determine eligibility for public assistance

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1 or knowingly failing to disclose a change in circumstances for
2 the purpose of obtaining or continuing to receive public
3 assistance to which he is not entitled or in amounts greater
4 than that to which he is entitled.

5 B. Whoever commits failing to disclose facts or
6 change of circumstances to obtain public assistance when the
7 value of the assistance wrongfully received is one hundred
8 dollars (\$100) or less in any twelve consecutive months is
9 guilty of a petty misdemeanor.

10 C. Whoever commits failing to disclose facts or
11 change of circumstances to obtain public assistance when the
12 value of the assistance wrongfully received is more than one
13 hundred dollars (\$100) but not more than [~~two hundred fifty~~
14 ~~dollars (\$250)~~] one thousand dollars (\$1,000) in any twelve
15 consecutive months is guilty of a misdemeanor.

16 D. Whoever commits failing to disclose facts or
17 change of circumstances to obtain public assistance when the
18 value of the assistance wrongfully received is more than [~~two~~
19 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000)
20 but not more than two thousand five hundred dollars (\$2,500)
21 in any twelve consecutive months is guilty of a fourth degree
22 felony.

23 E. Whoever commits failing to disclose facts or
24 change of circumstances to obtain public assistance when the
25 value of the assistance wrongfully received is more than two

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1 thousand five hundred dollars (\$2,500) but not more than
2 twenty thousand dollars (\$20,000) is guilty of a third degree
3 felony.

4 F. Whoever commits failing to disclose facts or
5 change of circumstances to obtain public assistance when the
6 value of the assistance wrongfully received exceeds twenty
7 thousand dollars (\$20,000) is guilty of a second degree
8 felony. "

9 Section 22. Section 30-40-2 NMSA 1978 (being Laws 1979,
10 Chapter 170, Section 2, as amended) is amended to read:

11 "30-40-2. UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD
12 OR MEDICAL IDENTIFICATION CARD. --

13 A. Unlawful use of food stamp identification card
14 or medical identification card consists of the use of a food
15 stamp or medical identification card by any person to whom it
16 has not been issued, or who is not an authorized
17 representative of such a person, for a food stamp allotment.

18 B. Whoever commits unlawful use of food stamp
19 identification card or medical identification card when the
20 value of the food stamps or medical services wrongfully
21 received is one hundred dollars (\$100) or less is guilty of a
22 petty misdemeanor.

23 C. Whoever commits unlawful use of food stamp
24 identification card or medical identification card when the
25 value of the food stamps or medical services wrongfully

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1 received is more than one hundred dollars (\$100) but not more
2 than [~~two hundred fifty dollars (\$250)~~] one thousand dollars
3 (\$1,000) is guilty of a misdemeanor.

4 D. Whoever commits unlawful use of food stamp
5 identification card or medical identification card when the
6 value of the food stamps or medical services wrongfully
7 received is more than [~~two hundred fifty dollars (\$250)~~] one
8 thousand dollars (\$1,000) but not more than two thousand five
9 hundred dollars (\$2,500) is guilty of a fourth degree felony.

10 E. Whoever commits unlawful use of food stamp
11 identification card or medical identification card when the
12 value of the food stamps or medical services wrongfully
13 received is more than two thousand five hundred dollars
14 (\$2,500) but not more than twenty thousand dollars (\$20,000)
15 is guilty of a third degree felony.

16 F. Whoever commits unlawful use of food stamp
17 identification card or medical identification card when the
18 value of the food stamps or medical services wrongfully
19 received exceeds twenty thousand dollars (\$20,000) is guilty
20 of a second degree felony.

21 G. For the purpose of this section, the value of
22 the medical assistance received is the amount paid by the
23 human services department for medical services received
24 through use of the card. "

25 Section 23. Section 30-40-3 NMSA 1978 (being Laws 1979,

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1 Chapter 170, Section 3, as amended) is amended to read:

2 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE. --

3 A. Misappropriating public assistance consists of
4 any public officer or public employee fraudulently
5 misappropriating, attempting to misappropriate or aiding and
6 abetting in the misappropriation of food stamp coupons, WIC
7 checks pertaining to the special supplemental food program for
8 women, infants and children administered by the department of
9 health [~~and environment department~~], food stamp or medical
10 identification cards, public assistance benefits or funds
11 received in exchange for food stamp coupons.

12 B. Whoever commits misappropriating public
13 assistance when the value of the thing misappropriated is one
14 hundred dollars (\$100) or less is guilty of a petty
15 misdemeanor.

16 C. Whoever commits misappropriating public
17 assistance when the value of the thing misappropriated is more
18 than one hundred dollars (\$100) but not more than [~~two hundred~~
19 ~~fifty dollars (\$250)] one thousand dollars (\$1,000) is guilty
20 of a misdemeanor.~~

21 D. Whoever commits misappropriating public
22 assistance when the value of the thing misappropriated is more
23 than [~~two hundred fifty dollars (\$250)] one thousand dollars
24 (\$1,000) but not more than two thousand five hundred dollars
25 (\$2,500) is guilty of a fourth degree felony.~~

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1 E. Whoever commits misappropriating public
2 assistance when the value of the thing misappropriated is more
3 than two thousand five hundred dollars (\$2,500) but not more
4 than twenty thousand dollars (\$20,000) is guilty of a third
5 degree felony.

6 F. Whoever commits misappropriating public
7 assistance when the value of the thing misappropriated exceeds
8 twenty thousand dollars (\$20,000) is guilty of a second degree
9 felony.

10 G. Whoever commits misappropriating public
11 assistance when the item misappropriated is a food stamp or
12 medical identification card is guilty of a fourth degree
13 felony. "

14 Section 24. Section 30-40-6 NMSA 1978 (being Laws 1979,
15 Chapter 170, Section 6, as amended) is amended to read:

16 "30-40-6. FAILURE TO REIMBURSE THE HUMAN SERVICES
17 DEPARTMENT UPON RECEIPT OF THIRD PARTY PAYMENT. --

18 A. Failure to reimburse the human services
19 department upon receipt of third party payment consists of
20 [~~knowingly~~] knowing failure by a medicaid provider to
21 reimburse the human services department or the department's
22 fiscal agent the amount of payment received from the
23 department for services when the provider receives payment for
24 the same services from any third party.

25 B. A medicaid provider who commits failure to

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1 reimburse the department upon receipt of third party payment
2 when the value of the payment made by the department is one
3 hundred dollars (\$100) or less is guilty of a petty
4 misdemeanor.

5 C. A medicaid provider who commits failure to
6 reimburse the department upon receipt of third party payment
7 when the value of the payment made by the department is more
8 than one hundred dollars (\$100) but not more than [~~two hundred~~
9 ~~fifty dollars (\$250)~~] one thousand dollars (\$1,000) is guilty
10 of a misdemeanor.

11 D. A medicaid provider who commits failure to
12 reimburse the department upon receipt of third party payment
13 when the value of the payment made by the department is more
14 than [~~two hundred fifty dollars (\$250)~~] one thousand dollars
15 (\$1,000) but not more than two thousand five hundred dollars
16 (\$2,500) is guilty of a fourth degree felony.

17 E. A medicaid provider who commits failure to
18 reimburse the department upon receipt of third party payment
19 when the value of the payment made by the department is more
20 than two thousand five hundred dollars (\$2,500) but not more
21 than twenty thousand dollars (\$20,000) is guilty of a third
22 degree felony.

23 F. A medicaid provider who commits failure to
24 reimburse the department upon receipt of third party payment
25 when the value of the payment made by the department exceeds

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1 twenty thousand dollars (\$20,000) is guilty of a second degree
2 felony. "

3 Section 25. Section 30-45-3 NMSA 1978 (being Laws 1989,
4 Chapter 215, Section 3) is amended to read:

5 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR
6 EMBEZZLE. -- Any person who knowingly and willfully accesses or
7 causes to be accessed any computer, computer system, computer
8 network or any part thereof with the intent to obtain, by
9 means of embezzlement or false or fraudulent pretenses,
10 representations or promises, money, property or anything of
11 value, ~~[where]~~ when:

12 A. the money, property or other thing has a value
13 of one hundred dollars (\$100) or less, is guilty of a petty
14 misdemeanor and shall be sentenced pursuant to the provisions
15 of Section 31-19-1 NMSA 1978;

16 B. the money, property or other thing has a value
17 of more than one hundred dollars (\$100) but not more than [~~two~~
18 ~~hundred fifty dollars (\$250)] one thousand dollars (\$1,000),
19 is guilty of a misdemeanor and shall be sentenced pursuant to
20 the provisions of Section 31-19-1 NMSA 1978;~~

21 C. the money, property or other thing has a value
22 of more than [~~two hundred fifty dollars (\$250)] one thousand
23 dollars (\$1,000) but not more than two thousand five hundred
24 dollars (\$2,500), is guilty of a fourth degree felony and
25 shall be sentenced pursuant to the provisions of Section~~

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1 31-18-15 NMSA 1978;

2 D. the money, property or other thing has a value
3 of more than two thousand five hundred dollars (\$2,500) but
4 not more than twenty thousand dollars (\$20,000), is guilty of
5 a third degree felony and shall be sentenced pursuant to the
6 provisions of Section 31-18-15 NMSA 1978; or

7 E. the money, property or other thing has a value
8 of more than twenty thousand dollars (\$20,000), is guilty of a
9 second degree felony and shall be sentenced pursuant to the
10 provisions of Section 31-18-15 NMSA 1978. "

11 Section 26. Section 30-45-4 NMSA 1978 (being Laws 1989,
12 Chapter 215, Section 4) is amended to read:

13 "30-45-4. COMPUTER ABUSE. -- Any person who knowingly,
14 willfully and without authorization, or having obtained
15 authorization:

16 A. directly or indirectly alters, changes,
17 damages, disrupts or destroys any computer, computer network,
18 computer property, computer service or computer system,
19 [~~where~~] when:

20 (1) the damage to the computer property or
21 computer service has a value of one hundred dollars (\$100) or
22 less, is guilty of a petty misdemeanor and shall be sentenced
23 pursuant to the provisions of Section 31-19-1 NMSA 1978;

24 (2) the damage to the computer property or
25 computer service has a value of more than one hundred dollars

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1 (\$100) but not more than [~~two hundred fifty dollars (\$250)~~]
2 one thousand dollars (\$1,000), is guilty of a misdemeanor and
3 shall be sentenced pursuant to the provisions of Section
4 31-19-1 NMSA 1978;

5 (3) the damage to the computer property or
6 computer service has a value of more than [~~two hundred fifty~~
7 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more
8 than two thousand five hundred dollars (\$2,500), is guilty of
9 a fourth degree felony and shall be sentenced pursuant to the
10 provisions of Section 31-18-15 NMSA 1978;

11 (4) the damage to the computer property or
12 computer service has a value of more than two thousand five
13 hundred dollars (\$2,500) but not more than twenty thousand
14 dollars (\$20,000), is guilty of a third degree felony and
15 shall be sentenced pursuant to the provisions of Section
16 31-18-15 NMSA 1978; or

17 (5) the damage to the computer property or
18 computer service has a value of more than twenty thousand
19 dollars (\$20,000), is guilty of a second degree felony and
20 shall be sentenced pursuant to the provisions of Section
21 31-18-15 NMSA 1978; or

22 B. directly or indirectly introduces or causes to
23 be introduced data [~~which~~] that the person knows to be false
24 into a computer, computer system, computer network, computer
25 software, computer program, database or any part thereof with

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1 the intent of harming the property or financial interests or
2 rights of any person is guilty of a fourth degree felony and
3 shall be sentenced pursuant to the provisions of Section
4 31-18-15 NMSA 1978. "

5 Section 27. Section 30-45-5 NMSA 1978 (being Laws 1989,
6 Chapter 215, Section 5) is amended to read:

7 "30-45-5. UNAUTHORIZED COMPUTER USE. -- Any person who
8 knowingly, willfully and without authorization, or having
9 obtained authorization, uses the opportunity [~~such~~] the
10 authorization provides for purposes to which the authorization
11 does not extend, directly or indirectly accesses, uses, takes,
12 transfers, conceals, obtains, copies or retains possession of
13 any computer, computer network, computer property, computer
14 service, computer system or any part thereof, [~~where~~] when:

15 A. the damage to the computer property or computer
16 service has a value of one hundred dollars (\$100) or less, is
17 guilty of a petty misdemeanor and shall be sentenced pursuant
18 to the provisions of Section 31-19-1 NMSA 1978;

19 B. the damage to the computer property or computer
20 service has a value of more than one hundred dollars (\$100)
21 but not more than [~~two hundred fifty dollars (\$250)~~] one
22 thousand dollars (\$1,000), is guilty of a misdemeanor and
23 shall be sentenced pursuant to the provisions of Section
24 31-19-1 NMSA 1978;

25 C. the damage to the computer property or computer

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1 service has a value of more than [~~two hundred fifty dollars~~
2 ~~(\$250)~~] one thousand dollars (\$1,000) but not more than two
3 thousand five hundred dollars (\$2,500), is guilty of a fourth
4 degree felony and shall be sentenced pursuant to the
5 provisions of Section 31-18-15 NMSA 1978;

6 D. the damage to the computer property or computer
7 service has a value of more than two thousand five hundred
8 dollars (\$2,500) but not more than twenty thousand dollars
9 (\$20,000), is guilty of a third degree felony and shall be
10 sentenced pursuant to the provisions of Section 31-18-15 NMSA
11 1978; or

12 E. the damage to the computer property or computer
13 service has a value of more than twenty thousand dollars
14 (\$20,000), is guilty of a second degree felony and shall be
15 sentenced pursuant to the provisions of Section 31-18-15 NMSA
16 1978. "

17 Section 28. Section 30-47-6 NMSA 1978 (being Laws 1990,
18 Chapter 55, Section 6) is amended to read:

19 "30-47-6. EXPLOITATION-- CRIMINAL PENALTIES. --

20 A. Exploitation of a resident's property consists
21 of the act or process, performed intentionally, knowingly or
22 recklessly, of using a resident's property for another
23 person's profit, advantage or benefit without legal
24 entitlement to do so.

25 B. Whoever commits exploitation of a resident's

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1 property when the value of the property exploited is one
2 hundred dollars (\$100) or less is guilty of a petty
3 misdemeanor and upon conviction shall be sentenced pursuant to
4 the provisions of [~~Subsection B of~~] Section 31-19-1 NMSA 1978.

5 C. Whoever commits exploitation of a resident's
6 property when the value of the property exploited is over one
7 hundred dollars (\$100) but not more than [~~two hundred fifty~~
8 ~~dollars (\$250)~~] one thousand dollars (\$1,000) is guilty of a
9 misdemeanor and upon conviction shall be sentenced pursuant to
10 the provisions of [~~Subsection A of~~] Section 31-19-1 NMSA 1978.

11 D. Whoever commits exploitation of a resident's
12 property when the value of the property exploited is over [~~two~~
13 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000)
14 but not more than two thousand five hundred dollars (\$2,500)
15 is guilty of a fourth degree felony and upon conviction shall
16 be sentenced pursuant to the provisions of Section 31-18-15
17 NMSA 1978.

18 E. Whoever commits exploitation of a resident's
19 property when the value of the property exploited is over two
20 thousand five hundred dollars (\$2,500) but not more than
21 twenty thousand dollars (\$20,000) is guilty of a third degree
22 felony and upon conviction shall be sentenced pursuant to the
23 provisions of Section 31-18-15 NMSA 1978.

24 F. Whoever commits exploitation of a resident's
25 property when the value of the property exploited is over

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1 twenty thousand dollars (\$20,000) is guilty of a second degree
2 felony and upon conviction shall be sentenced pursuant to the
3 provisions of Section 31-18-15 NMSA 1978. "

4 Section 29. Section 30-50-4 NMSA 1978 (being Laws 1995,
5 Chapter 37, Section 4) is amended to read:

6 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES. -- Any
7 person who knowingly and willfully engages in telemarketing to
8 or from a telephone located in New Mexico with the intent to
9 embezzle or to obtain money, property or any thing of value by
10 fraudulent pretenses, representations or promises in the
11 course of a telephone communication, when:

12 A. the money, property or thing has a value of
13 [~~less than two hundred fifty dollars (\$250)~~] one hundred
14 dollars (\$100) or less, is guilty of a petty misdemeanor and
15 shall be sentenced pursuant to the provisions of Section
16 31-19-1 NMSA 1978;

17 B. the money, property or thing has a value of
18 [~~two hundred fifty dollars (\$250) or more but less than two~~
19 ~~thousand five hundred dollars (\$2,500)~~] more than one hundred
20 dollars (\$100) but not more than one thousand dollars
21 (\$1,000), is guilty of a [~~fourth degree felony~~] misdemeanor
22 and shall be sentenced pursuant to the provisions of Section
23 [~~31-18-15~~] 31-19-1 NMSA 1978;

24 C. the money, property or thing has a value of
25 [~~two thousand five hundred dollars (\$2,500) or more but less~~

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1 ~~than twenty thousand dollars (\$20,000)]~~ more than one thousand
2 dollars (\$1,000) but not more than two thousand five hundred
3 dollars (\$2,500), is guilty of a [~~third~~] fourth degree felony
4 and shall be sentenced pursuant to the provisions of Section
5 31-18-15 NMSA 1978; [~~or~~]

6 D. the money, property or other thing has a value
7 of more than two thousand five hundred dollars (\$2,500) but
8 not more than twenty thousand dollars (\$20,000), is guilty of
9 a third degree felony and shall be sentenced pursuant to the
10 provisions of Section 31-18-15 NMSA 1978; or

11 [~~D.-~~] E. the money, property or thing has a value
12 of twenty thousand dollars (\$20,000) or more, is guilty of a
13 second degree felony and shall be sentenced pursuant to the
14 provisions of Section 31-18-15 NMSA 1978. "

15 Section 30. EFFECTIVE DATE. --The effective date of the
16 provisions of this act is July 1, 2001.