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HOUSE BILL 596

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE
SCHEDULE OF SENTENCING FOR CERTAIN 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. -- [Any]

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

16 B. Whoever commits tax fraud when the amount of the
17 tax owed is one hundred dollars (\$100) or less is guilty of a
18 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 the
21 tax owed is over one hundred dollars (\$100) but not more than
22 one 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 D. Whoever commits tax fraud when the amount of the

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

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

10 F. Whoever commits tax fraud when the amount of the
11 tax owed is over twenty thousand dollars (\$20,000) is guilty of
12 a second degree felony and shall be sentenced pursuant to the
13 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 another
22 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 is
3 guilty of a petty misdemeanor.

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

8 D. Whoever commits criminal damage to property when
9 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 when
13 the damage to 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 F. Whoever commits criminal damage to property when
17 the damage to the property is over twenty thousand dollars
18 (\$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 the
7 damage to the church is over one hundred dollars (\$100) but not
8 more than one thousand dollars (\$1,000) is guilty of a
9 misdemeanor.

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

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

18 F. Whoever commits desecration of a church when the
19 damage to the church is over twenty thousand dollars (\$20,000)
20 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 guilty
3 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 more
6 than [~~two hundred fifty dollars (\$250)~~] one thousand dollars
7 (\$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) is
15 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]~~ that
6 belongs 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 (\$100)
10 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)]~~ one
14 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 than
18 ~~[twenty-five]~~ two thousand five hundred dollars (\$2,500) is
19 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 twenty
25 thousand dollars (\$20,000) is guilty of a third degree felony.

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

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

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

10 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR WIC
11 CHECKS. --

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

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

25 C. Whoever commits unlawful dealing in federal food

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

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

11 E. Whoever commits unlawful dealing in federal food
12 coupons or WIC checks when the value of the food coupons or WIC
13 checks involved is over [~~twenty-five~~] 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 F. Whoever commits unlawful dealing in federal food
17 coupons or WIC checks when the value of the food coupons or WIC
18 checks involved exceeds twenty thousand dollars (\$20,000) is
19 guilty of a second degree felony."

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

22 "30-16-8. EMBEZZLEMENT. --

23 A. Embezzlement consists of the embezzling or
24 converting to his own use of anything of value, with which he
25 has been entrusted, with fraudulent intent to deprive the owner

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1 thereof. Each separate incident of embezzlement or conversion
2 constitutes a separate and distinct offense.

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

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

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

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

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

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

24 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

25 A. Receiving stolen property means intentionally to

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

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

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

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

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

17 C. For the purposes of this section:

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

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

23 D. Whoever commits receiving stolen property when
24 the value of the property is one hundred dollars (\$100) or less
25 is guilty of a petty misdemeanor.

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

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

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

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

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

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

23 "30-16-13. CHEATING A MACHINE OR DEVICE. --

24 A. Cheating a machine or device consists of [~~any~~] a
25 person, with intent to defraud, attempting to operate or

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

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

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

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

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

23 F. Whoever commits cheating a machine or device
24 when the value of the property or service is over twenty
25 thousand dollars (\$20,000) is guilty of a second degree

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1 felony. "

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

4 "30-16-16. FALSELY OBTAINING SERVICES OR ACCOMMODATIONS--
5 PROBABLE CAUSE-- IMMUNITY-- PENALTY. --

6 A. Falsely obtaining services or accommodations
7 consists of [~~any~~] a person obtaining service, food,
8 entertainment or accommodations without paying with the intent
9 to cheat or defraud the owner or person supplying [~~such~~] the
10 service, food, entertainment or accommodations.

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

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

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

24 (2) more than one hundred dollars (\$100) but
25 not more than [~~two hundred fifty dollars (\$250)] one thousand~~

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1 dollars (\$1,000) is guilty of a misdemeanor;

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

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

9 (5) more than twenty thousand dollars
10 (\$20,000) is guilty of a second degree felony. "

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

13 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR CONCEALING
14 OF ENCUMBERED PROPERTY. --

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

24 [~~Any~~] B. A broker, dealer or any agent, buyer or
25 seller who receives any remuneration whatsoever for transfer of

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

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

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

22 E. Whoever commits improper sale, disposal, removal
23 or concealing of encumbered property [~~where~~] when the value of
24 [~~such~~] the property is over [~~two hundred fifty dollars (\$250)]~~
25 one thousand dollars (\$1,000) but not more than [~~twenty-five]~~

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1 two thousand five hundred dollars (\$2, 500) is guilty of a
2 fourth degree felony.

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

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

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

14 "30-16-20. CRIME OF SHOPLIFTING CREATED. --

15 A. Shoplifting consists of [~~any~~] one or more of the
16 following acts:

17 (1) willfully taking possession of any
18 merchandise with the intention of converting it without paying
19 for it;

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

22 (3) willfully altering any label, price tag or
23 marking upon any merchandise with the intention of depriving
24 the merchant of all or some part of the value of it; or

25 (4) willfully transferring any merchandise

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1 from the container in or on which it is displayed to any other
2 container with the intention of depriving the merchant of all
3 or some part of the value of it.

4 B. Whoever commits shoplifting when the value of
5 the merchandise shoplifted:

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

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

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

15 (4) is more than 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; or

18 (5) is more than twenty thousand dollars
19 (\$20,000) is guilty of a second degree felony.

20 C. [~~Any~~] An individual charged with a violation of
21 this section shall not be charged with a separate or additional
22 offense arising out of the same transaction."

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

25 "30-16-33. FRAUDULENT USE OF CREDIT CARDS. --

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

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

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

10 (3) a credit card while fraudulently
11 representing that he is the cardholder named on the credit card
12 or an authorized agent or representative of the cardholder
13 named on the credit card; or

14 (4) a credit card issued in the name of
15 another person without the consent of the person to whom the
16 card has been issued.

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

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

25 C. Whoever commits fraudulent use of a credit card

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1 when the value of the property or service is over one hundred
2 dollars (\$100) but not more than one thousand dollars (\$1,000)
3 is guilty of a misdemeanor.

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

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

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

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

18 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR
19 EMPLOYEES. --

20 A. ~~[Any]~~ A merchant or the employee of ~~[any]~~ a
21 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud
22 if, with intent to defraud, he furnishes or allows to be
23 furnished anything of value upon presentation of a credit card
24 obtained or retained in violation of Sections ~~[40A-16-24~~
25 ~~through 40A-16-38 NMSA 1953]~~ 30-16-25 through 30-16-38 NMSA

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1 1978, or fraudulently made or embossed or fraudulently signed
2 or a credit card ~~[which]~~ that he knows is invalid, expired or
3 revoked or a credit card presented by a person whom he knows is
4 not the cardholder named on the credit card or an authorized
5 agent or representative of the cardholder named on the credit
6 card. If the value of anything furnished by a merchant, or by
7 an employee of a merchant, in violation of this section
8 ~~[exceeds three hundred dollars (\$300), in any consecutive six~~
9 ~~months period, then the offense is a third degree felony]:~~

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

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

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

20 (4) is more than two thousand five hundred
21 dollars (\$2,500) but not more than twenty thousand dollars
22 (\$20,000) in any consecutive six-month period, the offense is a
23 third degree felony; or

24 (5) is more than twenty thousand dollars
25 (\$20,000) in any consecutive six-month period, the offense is a

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1 second degree felony.

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

13 (1) is one hundred dollars (\$100) or less in
14 any consecutive six-month period, the offense is a petty
15 misdeemeanor;

16 (2) is more than one hundred dollars (\$100)
17 but not more than one thousand dollars (\$1,000) in any
18 consecutive six-month period, the offense is a misdeemeanor;

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

23 (4) is more than two thousand five hundred
24 dollars (\$2,500) but not more than twenty thousand dollars
25 (\$20,000) in any consecutive six-month period, the offense is a

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1 third degree felony; or
2 (5) is more than twenty thousand dollars
3 (\$20,000) in any consecutive six-month period, the offense is a
4 second degree felony. "

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

7 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF
8 ACT. -- [Any] A person who receives [~~the~~] money, goods, services
9 or anything else of value obtained in violation of Section
10 [~~40A-16-33 NMSA 1953~~] 30-16-33 NMSA 1978, and who knows or has
11 reason to believe that it was so obtained, violates this
12 section. The degree of the offense is determined as follows:

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

18 B. if the value of all things of value obtained
19 from [~~any~~] a person [~~or persons~~] in violation of this section
20 is ~~more than one hundred dollars (\$100) but [less than three~~
21 ~~hundred dollars (\$300) in any consecutive six months period,~~
22 ~~then the offense is a fourth degree felony;~~

23 ~~C. if the value of all things of value obtained~~
24 ~~from any person or persons in violation of this section is~~
25 ~~three hundred dollars (\$300) or more in any consecutive six~~

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1 ~~months period, then the offense is a third degree felony]~~ not
2 more than one thousand dollars (\$1,000) in any consecutive
3 six-month period, then the offense is a misdemeanor;

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

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

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

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

20 "30-16-39. **FRAUDULENT ACTS TO OBTAIN OR RETAIN POSSESSION**
21 **OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL PROPERTY--**

22 **PENALTY. --** ~~[Any]~~ A person who rents or leases a vehicle or other
23 personal property and obtains or retains possession of it by
24 means of any false or fraudulent representation, fraudulent
25 concealment, false pretense or personation, trick, artifice or

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1 device, including [~~but not limited to~~] a false representation
2 as to his name, residence, employment or operator's license is
3 guilty:

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

7 B. of a [~~petty~~] misdemeanor if the property [~~is not~~
8 a] or vehicle [~~and~~] has a value of over one hundred dollars
9 (\$100) [~~or less~~] but not more than one thousand dollars
10 (\$1,000);

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

14 D. of a third degree felony if the property or
15 vehicle has a value of over two thousand five hundred dollars
16 (\$2,500) but not more than twenty thousand dollars (\$20,000);
17 and

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

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

22 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE
23 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

24 A. [~~Any~~] A person who, after leasing a vehicle or
25 other personal property under a written agreement [~~which~~] that

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1 provides for the return of the vehicle or personal property to
2 a particular place at a particular time and who, with intent to
3 defraud the lessor of the vehicle or personal property, fails
4 to return the vehicle or personal property to the place within
5 the time specified, is guilty of a:

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

9 ~~(2) of a fourth degree felony if the property~~
10 ~~is not a vehicle and has a value of more than one hundred~~
11 ~~dollars (\$100) but less than two thousand five hundred dollars~~
12 ~~(\$2,500);~~

13 ~~(3) of a fourth degree felony if the vehicle~~
14 ~~has a value of less than two thousand five hundred dollars~~
15 ~~(\$2,500); and~~

16 ~~(4) of a third degree felony if the property~~
17 ~~or vehicle has a value of two thousand five hundred dollars~~
18 ~~(\$2,500) or more]~~

19 (1) petty misdemeanor if the property or
20 vehicle has a value of one hundred dollars (\$100) or less;

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

24 (3) fourth degree felony if the property or
25 vehicle has a value of over one thousand dollars (\$1,000) but

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1 not more than two thousand five hundred dollars (\$2,500);

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

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

8 B. Failure of the lessee to return the vehicle or
9 personal property to the place specified within seventy-two
10 hours after mailing to him by certified mail at his address
11 shown on the leasing agreement a written demand to return the
12 vehicle or personal property shall raise a rebuttable
13 presumption that the failure to return the vehicle or personal
14 property was with intent to defraud. "

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

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

18 A. Arson consists of a person maliciously or
19 willfully starting a fire or causing an explosion with the
20 purpose of destroying or damaging any building, occupied
21 structure or property of another person, or bridge, utility
22 line, fence or sign; or with the purpose of destroying or
23 damaging any property, whether the person's own or another's,
24 to collect insurance for [~~such~~] the loss.

25 (1) Whoever ~~commi~~ts arson when the value of

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

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

7 (3) Whoever commits arson when the value of
8 the thing destroyed or damaged [exceeds one thousand dollars
9 (\$1,000) is guilty of a third degree felony] is over 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 (4) Whoever commits arson when the value of
13 the thing destroyed or damaged 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 (5) Whoever commits arson when the value of
17 the thing destroyed or damaged is over twenty thousand dollars
18 (\$20,000) is guilty of a second degree felony.

19 B. Negligent arson consists of a person recklessly
20 starting a fire or causing an explosion, whether on the
21 person's property or another's property, and thereby directly
22 causing the death or bodily injury of another person; or
23 damaging or destroying a building or occupied structure of
24 another person.

25 Whoever commits negligent arson is guilty of a fourth

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1 degree felony.

2 C. As used in this section, "occupied structure"
3 includes a boat, trailer, car, airplane, structure or place
4 adapted for the transportation or storage of property or for
5 overnight accommodations of persons or for carrying on business
6 therein, whether or not a person is actually present. "

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

9 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE
10 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE-- CRIME TO
11 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR
12 CERTAIN PURPOSES-- PENALTY. --

13 A. It is unlawful for [~~any~~] a person, with intent
14 to defraud any person, firm or corporation, to obtain or to
15 attempt to obtain [~~any~~] telecommunications service without
16 paying the lawful charge, in whole or in part, by any of the
17 following means:

18 (1) charging [~~such~~] the service to an existing
19 telephone number or credit card number without the authority of
20 the subscriber [~~thereto~~] or the legitimate holder [~~thereof~~];

21 (2) charging [~~such~~] the service to a
22 nonexistent, false, fictitious or counterfeit telephone number
23 or credit card number or to a suspended, terminated, expired,
24 canceled or revoked telephone number or credit card number;

25 (3) rearranging, tampering with or making

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1 electrical, acoustical, induction or other connection with any
2 facilities or equipment;

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

6 (5) using any other contrivance, device or
7 means to avoid payment of the lawful charges, in whole or in
8 part, for [~~such~~] the service.

9 B. This [~~subsection~~] section shall apply when [~~said~~
10 ~~telecommunication~~] the telecommunications service either
11 originates or terminates, or both, in this state or when
12 charges for [~~said~~] the service would have been billable in
13 normal course by the public utility providing [~~such~~] the
14 service in this state but for the fact that [~~said~~] the service
15 was obtained or attempted to be obtained by one or more of the
16 means set forth [~~hereinabove~~] in this section.

17 C. Whoever violates this [~~subsection~~] section when
18 the charges for the [~~telecommunication~~] telecommunications
19 service obtained or attempted to be obtained are one hundred
20 dollars (\$100) or less is guilty of a petty misdemeanor.

21 D. Whoever violates this [~~subsection~~] section when
22 the charges for the [~~telecommunication~~] telecommunications
23 service obtained or attempted to be obtained are more than one
24 hundred dollars (\$100) but not more than [~~two hundred fifty~~
25 ~~dollars (\$250)]~~ one thousand dollars (\$1,000) is guilty of a

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1 ~~mi~~sdemeanor.

2 E. Whoever violates this [~~subsection~~] section when
3 the charges for the [~~telecommunication~~] telecommunications
4 service obtained or attempted to be obtained are more than [~~two~~
5 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000) but
6 not more than [~~twenty-five~~] two thousand five hundred dollars
7 (\$2,500) is guilty of fourth degree felony.

8 F. Whoever violates this [~~subsection~~] section when
9 the charges for the [~~telecommunication~~] telecommunications
10 service obtained or attempted to be obtained are more than
11 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) but
12 not more than twenty thousand dollars (\$20,000) is guilty of a
13 third degree felony.

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

18 [~~B.~~] H. It is unlawful for [~~any~~] a person under
19 circumstances evidencing an intent to use or employ any
20 instrument, apparatus, equipment or device described in
21 Paragraph (1) of this subsection or to allow the same to be
22 used or employed for the purpose described in Paragraph (1) of
23 this subsection or knowing or having reason to believe that the
24 same is intended to be so used or that the plans and
25 instructions described in Paragraph (2) of this subsection are

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1 intended to be used for making or assembling such instrument,
2 apparatus, equipment or device:

3 (1) to make or possess any instrument,
4 apparatus, equipment or device designed, adapted or ~~which~~
5 that can be used either:

6 (a) to obtain ~~telecommunication~~
7 telecommunications service in violation of Subsection A of this
8 section; or

9 (b) to conceal or to assist another to
10 conceal from any supplier of ~~telecommunication~~
11 telecommunications service or from any lawful authority the
12 existence or place of origin or of destination of any
13 ~~telecommunication~~ telecommunications service; or

14 (2) to sell, give or otherwise transfer to
15 another or to offer or advertise for sale any instrument,
16 apparatus, equipment or device described in Paragraph (1) of
17 this subsection or plans or instructions for making or
18 assembling the same.

19 I. Whoever violates ~~this~~ Subsection H of this
20 section is guilty of a misdemeanor, unless ~~such~~ the person
21 has previously been convicted of ~~such~~ the crime or of an
22 offense under the laws of another state or of the United States
23 ~~which~~ that would have been an offense under this subsection
24 if committed in this state, in which case ~~such~~ the person is
25 guilty of a fourth degree felony. "

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

3 "30-36-5. PENALTY. -- ~~[Any]~~ A person [violating] who
4 violates Section [40-49-4 New Mexico Statutes Annotated, 1953
5 Compilation] 30-36-4 NMSA 1978 shall be punished as follows:

6 A. when the amount of the check, draft or order or
7 the total amount of the checks, drafts or orders ~~[are for more~~
8 ~~than one dollar (\$1.00) but less than twenty-five dollars~~
9 ~~(\$25.00), imprisonment in the county jail for a term of not~~
10 ~~more than thirty days or a fine of not more than one hundred~~
11 ~~dollars (\$100), or both such imprisonment and fine] is one~~
12 hundred dollars (\$100) or less, the person is guilty of a petty
13 misdeemeanor;

14 B. when the amount of the check, draft or order or
15 the total amount of the checks, drafts or orders ~~[are for~~
16 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~
17 ~~penitentiary for a term of not less than one year nor more than~~
18 ~~three years or the payment of a fine of not more than one~~
19 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~
20 is over one hundred dollars (\$100) but not more than one
21 thousand dollars (\$1,000), the person is guilty of a
22 misdeemeanor;

23 C. when the amount of the check, draft or order or
24 the total amount of the checks, drafts or orders is over one
25 thousand dollars (\$1,000) but not more than two thousand five

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1 hundred dollars (\$2,500), the person is guilty of a fourth
2 degree felony;

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

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

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

14 "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF
15 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE. --

16 A. Failing to disclose facts or change of
17 circumstances to obtain public assistance consists of [~~any~~] a
18 person knowingly failing to disclose [~~any~~] a material [~~facts~~]
19 fact known to be necessary to determine eligibility for public
20 assistance or knowingly failing to disclose a change in
21 circumstances for the purpose of obtaining or continuing to
22 receive public assistance to which he is not entitled or in
23 amounts greater than that to which he is entitled.

24 B. Whoever commits failing to disclose facts or
25 change of circumstances to obtain public assistance when the

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1 value of the assistance wrongfully received is one hundred
2 dollars (\$100) or less in any twelve consecutive months is
3 guilty of a petty misdemeanor.

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

10 D. 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 [~~two~~
13 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000) but
14 not more than two thousand five hundred dollars (\$2,500) in any
15 twelve consecutive months is guilty of a fourth degree felony.

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

21 F. Whoever commits failing to disclose facts or
22 change of circumstances to obtain public assistance when the
23 value of the assistance wrongfully received exceeds twenty
24 thousand dollars (\$20,000) is guilty of a second degree
25 felony. "

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

3 "30-40-2. UNLAWFUL USE OF FOOD STAMP IDENTIFICATION CARD
4 OR MEDICAL IDENTIFICATION CARD. --

5 A. Unlawful use of food stamp identification card
6 or medical identification card consists of the use of a food
7 stamp or medical identification card by [~~any~~] a person to whom
8 it has not been issued, or who is not an authorized
9 representative of the person, for a food stamp allotment.

10 B. 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 one hundred dollars (\$100) or less is guilty of a
14 petty misdemeanor.

15 C. Whoever commits unlawful use of food stamp
16 identification card or medical identification card when the
17 value of the food stamps or medical services wrongfully
18 received is more than one hundred dollars (\$100) but not more
19 than [~~two hundred fifty dollars (\$250)]~~ one thousand dollars
20 (\$1,000) is guilty of a misdemeanor.

21 D. Whoever commits unlawful use of food stamp
22 identification card or medical identification card when the
23 value of the food stamps or medical services wrongfully
24 received is more than [~~two hundred fifty dollars (\$250)]~~ one
25 thousand dollars (\$1,000) but not more than two thousand five

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1 hundred dollars (\$2,500) is guilty of a fourth degree felony.

2 E. Whoever commits unlawful use of food stamp
3 identification card or medical identification card when the
4 value of the food stamps or medical services wrongfully
5 received is more than two thousand five hundred dollars
6 (\$2,500) but not more than twenty thousand dollars (\$20,000) is
7 guilty of a third degree felony.

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

13 G. For the purpose of this section, the value of
14 the medical assistance received is the amount paid by the human
15 services department for medical services received through use
16 of the card."

17 Section 23. Section 30-40-3 NMSA 1978 (being Laws 1979,
18 Chapter 170, Section 3, as amended) is amended to read:

19 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE. --

20 A. Misappropriating public assistance consists of
21 [any] a public officer or public employee fraudulently
22 misappropriating, attempting to misappropriate or aiding and
23 abetting in the misappropriation of food stamp coupons, WIC
24 checks pertaining to the special supplemental food program for
25 women, infants and children administered by the department of

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1 health [~~and environment department~~], food stamp or medical
2 identification cards, public assistance benefits or funds
3 received in exchange for food stamp coupons.

4 B. Whoever commits misappropriating public
5 assistance when the value of the thing misappropriated is one
6 hundred dollars (\$100) or less is guilty of a petty
7 misdemeanor.

8 C. Whoever commits misappropriating public
9 assistance when the value of the thing misappropriated is more
10 than one hundred dollars (\$100) but not more than [~~two hundred~~
11 ~~fifty dollars (\$250)] one thousand dollars (\$1,000) is guilty
12 of a misdemeanor.~~

13 D. Whoever commits misappropriating public
14 assistance when the value of the thing misappropriated is more
15 than [~~two hundred fifty dollars (\$250)] one thousand dollars
16 (\$1,000) but not more than two thousand five hundred dollars
17 (\$2,500) is guilty of a fourth degree felony.~~

18 E. Whoever commits misappropriating public
19 assistance when the value of the thing misappropriated 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. Whoever commits misappropriating public
24 assistance when the value of the thing misappropriated exceeds
25 twenty thousand dollars (\$20,000) is guilty of a second degree

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1 felony.

2 G. Whoever commits misappropriating public
3 assistance when the item misappropriated is a food stamp or
4 medical identification card is guilty of a fourth degree
5 felony. "

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

8 "30-40-6. FAILURE TO REIMBURSE THE DEPARTMENT UPON
9 RECEIPT OF THIRD PARTY PAYMENT. --

10 A. Failure to reimburse the human services
11 department upon receipt of third party payment consists of
12 [~~knowingly~~] knowing failure by a medicaid provider to reimburse
13 the human services department or the department's fiscal agent
14 the amount of payment received from the department for services
15 when the provider receives payment for the same services from
16 [~~any~~] a third party.

17 B. 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 one
20 hundred dollars (\$100) or less is guilty of a petty
21 misdemeanor.

22 C. A medicaid provider who commits failure to
23 reimburse the department upon receipt of third party payment
24 when the value of the payment made by the department is more
25 than one hundred dollars (\$100) but not more than [~~two hundred~~

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1 ~~fifty dollars (\$250)]~~ one thousand dollars (\$1,000) is guilty
2 of a misdemeanor.

3 D. A medicaid provider who commits failure to
4 reimburse the department upon receipt of third party payment
5 when the value of the payment made by the department is more
6 than [~~two hundred fifty dollars (\$250)]~~ one thousand dollars
7 (\$1,000) but not more than two thousand five hundred dollars
8 (\$2,500) is guilty of a fourth degree felony.

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

15 F. A medicaid provider who commits failure to
16 reimburse the department upon receipt of third party payment
17 when the value of the payment made by the department exceeds
18 twenty thousand dollars (\$20,000) is guilty of a second degree
19 felony. "

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

22 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR
23 EMBEZZLE. -- [~~Any~~] A person who knowingly and willfully accesses
24 or causes to be accessed any computer, computer system,
25 computer network or any part thereof with the intent to obtain,

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[bracketed material] = delete

1 by means of embezzlement or false or fraudulent pretenses,
2 representations or promises, money, property or anything of
3 value, ~~[where]~~ when:

4 A. the money, property or other thing has a value
5 of one hundred dollars (\$100) or less, is guilty of a petty
6 misdemeanor;

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

12 C. the money, property or other thing has a value
13 of more than [~~two hundred fifty dollars (\$250)~~] one thousand
14 dollars (\$1,000) but not more than two thousand five hundred
15 dollars (\$2,500), is guilty of a fourth degree felony [~~and~~
16 ~~shall be sentenced pursuant to the provisions of Section~~
17 ~~31-18-15 NMSA 1978~~];

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

23 E. the money, property or other thing has a value
24 of more than twenty thousand dollars (\$20,000), is guilty of a
25 second degree felony [~~and shall be sentenced pursuant to the~~

underscored material = new
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1 ~~provisions of Section 31-18-15 NMSA 1978]. "~~

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

4 "30-45-4. COMPUTER ABUSE. -- ~~[Any]~~ A person who knowingly,
5 willfully and without authorization, or having obtained
6 authorization:

7 A. directly or indirectly alters, changes, damages,
8 disrupts or destroys any computer, computer network, computer
9 property, computer service or computer system, ~~[where]~~ when:

10 (1) the damage to the computer property or
11 computer service has a value of one hundred dollars (\$100) or
12 less, is guilty of a petty misdemeanor;

13 (2) the damage to the computer property or
14 computer service has a value of more than one hundred dollars
15 (\$100) but not more than ~~[two hundred fifty dollars (\$250)]~~ one
16 thousand dollars (\$1,000), is guilty of a misdemeanor ~~[and~~
17 ~~shall be sentenced pursuant to the provisions of Section~~
18 ~~31-19-1 NMSA 1978]~~;

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

25 (4) the damage to the computer property or

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

6 (5) the damage to the computer property or
7 computer service has a value of more than twenty thousand
8 dollars (\$20,000), is guilty of a second degree felony [~~and~~
9 ~~shall be sentenced pursuant to the provisions of Section~~
10 ~~31-18-15 NMSA 1978~~]; or

11 B. directly or indirectly introduces or causes to
12 be introduced data [~~which~~] that the person knows to be false
13 into a computer, computer system, computer network, computer
14 software, computer program, database or any part thereof with
15 the intent of harming the property or financial interests or
16 rights of any person is guilty of a fourth degree felony [~~and~~
17 ~~shall be sentenced pursuant to the provisions of Section~~
18 ~~31-18-15 NMSA 1978~~]. "

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

21 "30-45-5. UNAUTHORIZED COMPUTER USE. -- [~~Any~~] A person who
22 knowingly, willfully and without authorization, or having
23 obtained authorization, uses the opportunity [~~such~~] the
24 authorization provides for purposes to which the authorization
25 does not extend, directly or indirectly accesses, uses, takes,

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[bracketed material] = delete

1 transfers, conceals, obtains, copies or retains possession of
2 any computer, computer network, computer property, computer
3 service, computer system or any part thereof, ~~[where]~~ when:

4 A. the damage to the computer property or computer
5 service has a value of one hundred dollars (\$100) or less, is
6 guilty of a petty misdemeanor;

7 B. the damage to the computer property or computer
8 service has a value of more than one hundred dollars (\$100) but
9 not more than ~~[two hundred fifty dollars (\$250)]~~ one thousand
10 dollars (\$1,000), is guilty of a misdemeanor ~~[and shall be~~
11 ~~sentenced pursuant to the provisions of Section 31-19-1 NMSA~~
12 ~~1978]~~;

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

19 D. the damage to the computer property or computer
20 service has a value of more than two thousand five hundred
21 dollars (\$2,500) but not more than twenty thousand dollars
22 (\$20,000), is guilty of a third degree felony ~~[and shall be~~
23 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~
24 ~~1978]~~; or

25 E. the damage to the computer property or computer

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1 service has a value of more than twenty thousand dollars
2 (\$20,000), is guilty of a second degree felony [~~and shall be~~
3 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~
4 ~~1978~~]. "

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

7 "30-47-6. EXPLOITATION--CRIMINAL PENALTIES.--

8 A. Exploitation of a resident's property consists
9 of the act or process, performed intentionally, knowingly or
10 recklessly, of using a resident's property for another person's
11 profit, advantage or benefit without legal entitlement to do
12 so.

13 B. Whoever commits exploitation of a resident's
14 property when the value of the property exploited is one
15 hundred dollars (\$100) or less is guilty of a petty misdemeanor
16 [~~and upon conviction shall be sentenced pursuant to the~~
17 ~~provisions of Subsection B of Section 31-19-1 NMSA 1978~~].

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

24 D. Whoever commits exploitation of a resident's
25 property when the value of the property exploited is over [~~two~~

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

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

12 F. Whoever commits exploitation of a resident's
13 property when the value of the property exploited is over
14 twenty thousand dollars (\$20,000) is guilty of a second degree
15 felony [~~and upon conviction shall be sentenced pursuant to the~~
16 ~~provisions of Section 31-18-15 NMSA 1978]~~. "

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

19 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES. -- [Any] A
20 person who knowingly and willfully engages in telemarketing to
21 or from a telephone located in New Mexico with the intent to
22 embezzle or to obtain money, property or any thing of value by
23 fraudulent pretenses, representations or promises in the course
24 of a telephone communication, when:

25 A. the money, property or thing has a value of

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1 ~~[less than two hundred fifty dollars (\$250)]~~ one hundred
2 dollars (\$100) or less, is guilty of a petty misdemeanor ~~[and~~
3 ~~shall be sentenced pursuant to the provisions of Section~~
4 ~~31-19-1 NMSA 1978]~~;

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

12 C. the money, property or thing has a value of [~~two~~
13 ~~thousand five hundred dollars (\$2,500) or more but less than~~
14 ~~twenty thousand dollars (\$20,000)]~~ more than one thousand
15 dollars (\$1,000) but not more than two thousand five hundred
16 dollars (\$2,500), is guilty of a [~~third~~] fourth degree felony;
17 [~~and shall be sentenced pursuant to the provisions of Section~~
18 ~~31-18-15 NMSA 1978; or]~~

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

24 ~~[D.]~~ E. the money, property or thing has a value of
25 twenty thousand dollars (\$20,000) or more, is guilty of a

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1 second degree felony [~~and shall be sentenced pursuant to the~~
2 ~~provisions of Section 31-18-15 NMSA 1978~~]. "

3 Section 30. EFFECTIVE DATE. --The effective date of the
4 provisions of this act is July 1, 2003.

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