

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. TAX FRAUD.--

A. A person is guilty of tax fraud if the person:

(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 person does not
believe it to be true and correct as to every material matter;

(2) willfully assists in, willfully
procures, willfully advises or willfully provides counsel
regarding the preparation or presentation of a return,
affidavit, claim or other document pursuant to or in
connection with any matter arising under the Tax
Administration Act or a tax administered by the department,
knowing that it is fraudulent or knowing that it is false as
to a material matter, whether or not that fraud or falsity is
with knowledge or consent of:

(a) the taxpayer or other person liable

for taxes owed on the return; or

(b) a person who signs a document stating that the return, affidavit, claim or other document is true, correct and complete to the best of that person's knowledge;

(3) files any return electronically, knowing the information in the return is not true and correct as to every material matter; or

(4) with intent to evade or defeat the payment or collection of any tax, or, knowing that the probable consequences of the person's act will be to evade or defeat the payment or collection of any tax, removes, conceals or releases any property on which levy is authorized or that is liable for payment of tax under the provisions of Section 7-1-61 NMSA 1978, or aids in accomplishing or causes the accomplishment of any of the foregoing.

B. Whoever commits tax fraud when the amount of the tax owed is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. Whoever commits tax fraud when the amount of the tax owed is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

D. Whoever commits tax fraud when the amount of the tax owed is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

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

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

G. In addition to the fines imposed pursuant to this section, a person who commits tax fraud shall pay the costs of the prosecution of the person's case.

H. As used in this section:

(1) "tax" does not include civil penalties or interest; and

(2) "willfully" means intentionally, deliberately or purposely, but not necessarily maliciously."

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

"30-16-1. LARCENY.--

A. Larceny consists of the stealing of anything of value that belongs to another.

B. Whoever commits larceny when the value of the property stolen is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits larceny when the value of the property stolen is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits larceny when the value of the property stolen is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

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

H. Whoever commits larceny when the property of value stolen is a firearm is guilty of a fourth degree felony

when its value is less than two thousand five hundred dollars (\$2,500)."

Section 3. Section 30-16-6 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-6, as amended) is amended to read:

"30-16-6. FRAUD.--

A. Fraud consists of the intentional misappropriation or taking of anything of value that belongs to another by means of fraudulent conduct, practices or representations.

B. Whoever commits fraud when the value of the property misappropriated or taken is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits fraud when the value of the property misappropriated or taken is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits fraud when the value of the property misappropriated or taken is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

F. Whoever commits fraud when the value of the

property misappropriated or taken exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony.

G. Whoever commits fraud when the property misappropriated or taken is a firearm that is valued at less than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony."

Section 4. Section 30-16-7 NMSA 1978 (being Laws 1971, Chapter 282, Section 1, as amended) is amended to read:

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

A. Unlawful dealing in federal food coupons or WIC checks consists of a person buying, selling, trading, bartering or possessing food coupons or WIC checks issued by the United States department of agriculture with the intent to obtain an economic benefit to which the person is not entitled under the rules of the human services department pertaining to the food stamp program or of the department of health pertaining to the special supplemental food program for women, infants and children.

B. Whoever commits unlawful dealing in federal food coupons or WIC checks when the value of the food coupons or WIC checks involved is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits unlawful dealing in federal food coupons or WIC checks when the value of the food coupons

or WIC checks involved is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits unlawful dealing in federal food coupons or WIC checks when the value of the food coupons or WIC checks involved is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

G. For the purposes of this section, "federal food coupons or WIC checks" includes electronic benefit transfer cards or any other method through which food stamps or WIC benefits may be obtained."

Section 5. Section 30-16-8 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-7, as amended) is amended to read:

"30-16-8. EMBEZZLEMENT.--

A. Embezzlement consists of a person embezzling or

converting to the person's own use anything of value, with which the person has been entrusted, with fraudulent intent to deprive the owner thereof. Each separate incident of embezzlement or conversion constitutes a separate and distinct offense.

B. Whoever commits embezzlement when the value of the thing embezzled or converted is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits embezzlement when the value of the thing embezzled or converted is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits embezzlement when the value of the thing embezzled or converted is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

Section 6. Section 30-16-10 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-9) is amended to read:

"30-16-10. FORGERY.--

A. Forgery consists of:

(1) falsely making or altering any signature to, or any part of, any writing purporting to have any legal efficacy with intent to injure or defraud; or

(2) knowingly issuing or transferring a forged writing with intent to injure or defraud.

B. Whoever commits forgery when there is no quantifiable damage or when the damage is two thousand five hundred dollars (\$2,500) or less is guilty of a fourth degree felony.

C. Whoever commits forgery when the damage is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

D. Regardless of value, whoever commits forgery of a will, codicil, trust instrument, deed, mortgage, lien or any other instrument affecting title to real property is guilty of a third degree felony.

E. Whoever commits forgery when the damage is over twenty thousand dollars (\$20,000) is guilty of a second degree felony."

Section 7. Section 30-16-11 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-11, as amended) is amended to read:

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

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

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

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

(2) acquires stolen property for a consideration that the dealer knows is far below the property's reasonable value. A dealer shall be presumed to know the fair market value of the property in which the dealer deals; or

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

C. For the purposes of this section:

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

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

D. Whoever commits receiving stolen property when

the value of the property is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

E. Whoever commits receiving stolen property when the value of the property is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

F. Whoever commits receiving stolen property when the value of the property is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

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

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

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

A. Falsely obtaining services or accommodations consists of a person obtaining service, food, entertainment or accommodations without paying with the intent to cheat or defraud the owner or person supplying the service, food, entertainment or accommodations.

B. A law enforcement officer may arrest without warrant a person the officer has probable cause to believe has committed the crime of falsely obtaining services or accommodations. A merchant, owner or proprietor who causes such an arrest shall not be criminally or civilly liable if the merchant, owner or proprietor has actual knowledge that the person arrested has committed the crime of falsely obtaining services or accommodations.

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

(1) less than two hundred fifty dollars (\$250) is guilty of a petty misdemeanor;

(2) more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor;

(3) more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony;

(4) more than two thousand five hundred

dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony; and

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

Section 9. Section 30-16-18 NMSA 1978 (being Laws 1963, Chapter 303, Section 16-18, as amended) is amended to read:

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

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

B. A broker, dealer or an agent, buyer or seller who receives any remuneration whatsoever for transfer of equity or arranges the assumption of any loan on a mobile home or recreational vehicle that has a lien filed upon the vehicle with the motor vehicle division of the taxation and revenue department shall obtain written consent from the lien holder approving transferee's assumption of transferor's obligation to the lien holder within ten days of the transaction before

the transaction is entered into, provided that the lien holder's written consent shall not unreasonably be withheld. Failure to do so constitutes an improper sale, disposal, removal or concealing of encumbered property, which is punishable as a petty misdemeanor.

C. Whoever commits improper sale, disposal, removal or concealing of encumbered property when the value of the property is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

D. Whoever commits improper sale, disposal, removal or concealing of encumbered property when the value of the property is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

E. Whoever commits improper sale, disposal, removal or concealing of encumbered property when the value of the property is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

F. Whoever commits improper sale, disposal, removal or concealing of encumbered property when the value of the property is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

G. Whoever commits improper sale, disposal,

removal or concealing of encumbered property when the value of the property exceeds twenty thousand dollars (\$20,000) is guilty of a second degree felony."

Section 10. Section 30-16-20 NMSA 1978 (being Laws 1965, Chapter 5, Section 2, as amended) is amended to read:

"30-16-20. SHOPLIFTING.--

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

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

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

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

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

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

(1) is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor;

(2) is more than two hundred fifty dollars

(\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor;

(3) is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony;

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

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

C. An individual charged with a violation of this section shall not be charged with a separate or additional offense arising out of the same transaction."

Section 11. Section 30-16-33 NMSA 1978 (being Laws 1971, Chapter 239, Section 9) is amended to read:

"30-16-33. FRAUDULENT USE OF A CREDIT CARD.--

A. Fraudulent use of a credit card consists of a person obtaining anything of value, with intent to defraud, by using:

(1) a credit card obtained in violation of Sections 30-16-25 through 30-16-38 NMSA 1978;

(2) a credit card that is invalid, expired or revoked;

(3) a credit card while fraudulently representing that the person is the cardholder named on the

credit card or an authorized agent or representative of the cardholder named on the credit card; or

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

B. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is two hundred fifty dollars (\$250) or less in any consecutive six-month period is guilty of a petty misdemeanor.

C. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any consecutive six-month period is guilty of a misdemeanor.

D. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) in any consecutive six-month period is guilty of a fourth degree felony.

E. Whoever commits fraudulent use of a credit card when the value of the property or service obtained is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) in any consecutive six-month period is guilty of a third degree felony.

F. Whoever commits fraudulent use of a credit card

when the value of the property or service obtained is over twenty thousand dollars (\$20,000) in any consecutive six-month period is guilty of a second degree felony."

Section 12. Section 30-16-34 NMSA 1978 (being Laws 1971, Chapter 239, Section 10) is amended to read:

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

A. A merchant or the employee of a merchant commits fraud if, with intent to defraud, the merchant or employee furnishes or allows to be furnished anything of value upon presentation of a credit card:

(1) obtained or retained in violation of Sections 30-16-25 through 30-16-38 NMSA 1978;

(2) fraudulently made or embossed;

(3) fraudulently signed;

(4) that the merchant or employee knows is invalid, expired or revoked; or

(5) by a person whom the merchant or employee knows is not the cardholder named on the credit card or an authorized agent or representative of the cardholder named on the credit card.

B. When the value of anything furnished by a merchant, or by an employee of a merchant, in violation of this section:

(1) is two hundred fifty dollars (\$250) or

less in any consecutive six-month period, the offense is a petty misdemeanor;

(2) is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any consecutive six-month period, the offense is a misdemeanor;

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

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

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

C. A merchant or the employee of a merchant commits fraud if, with intent to defraud, the merchant or employee fails to furnish anything of value that the merchant or employee represents in writing to the issuer or to a participating party that the merchant or employee has furnished on a credit card or cards of the issuer. When the difference between the value of anything actually furnished to a person and the value represented by the merchant to the issuer or participating party:

(1) is two hundred fifty dollars (\$250) or less in any consecutive six-month period, the offense is a petty misdemeanor;

(2) is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any consecutive six-month period, the offense is a misdemeanor;

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

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

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

Section 13. Section 30-16-36 NMSA 1978 (being Laws 1971, Chapter 239, Section 12) is amended to read:

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

A. when the value of all things of value obtained from a person in violation of this section is two hundred fifty dollars (\$250) or less in any consecutive six-month period, then the offense is a petty misdemeanor;

B. when the value of all things of value obtained from a person in violation of this section is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any consecutive six-month period, then the offense is a misdemeanor;

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

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

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

Section 14. Section 30-16-39 NMSA 1978 (being Laws 1972, Chapter 23, Section 1, as amended) is amended to read:

"30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN POSSESSION OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL PROPERTY--PENALTY.--A person who rents or leases a vehicle or other personal property and obtains or retains possession of it by means of any false or fraudulent representation, fraudulent concealment, false pretense, trick, artifice or device, including a false representation as to the person's name, residence, employment or operator's license, is guilty of a:

A. petty misdemeanor if the vehicle or property has a value of two hundred fifty dollars (\$250) or less;

B. misdemeanor if the vehicle or property has a value of over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500);

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

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

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

Section 15. Section 30-16-40 NMSA 1978 (being Laws 1973, Chapter 154, Section 1, as amended) is amended to read:

"30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED

VEHICLE OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

A. A person who, after leasing a vehicle or other personal property under a written agreement that provides for the return of the vehicle or personal property to a particular place at a particular time and who, with intent to defraud the lessor of the vehicle or personal property, fails to return the vehicle or personal property to the place within the time specified, is guilty of a:

(1) petty misdemeanor if the property or vehicle has a value of two hundred fifty dollars (\$250) or less;

(2) misdemeanor if the property or vehicle has a value of over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500);

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

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

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

B. Failure of the lessee to return the vehicle or personal property to the place specified within seventy-two

hours after mailing to the lessee by certified mail at the lessee's address shown on the leasing agreement a written demand to return the vehicle or personal property shall raise a rebuttable presumption that the failure to return the vehicle or personal property was with intent to defraud."

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

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

A. Arson consists of a person maliciously or willfully starting a fire or causing an explosion with the purpose of destroying or damaging:

(1) a building, occupied structure or property of another person;

(2) a bridge, utility line, fence or sign;

or

(3) any property, whether the person's own property or the property of another person, to collect insurance for the loss.

B. Whoever commits arson when the damage is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits arson when the damage is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits arson when the damage is over

five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

F. Whoever commits arson when the damage is over twenty thousand dollars (\$20,000) is guilty of a second degree felony.

G. Negligent arson consists of a person recklessly starting a fire or causing an explosion, whether on the person's property or the property of another person, and thereby directly:

(1) causing the death or bodily injury of another person; or

(2) damaging or destroying a building or occupied structure of another person.

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

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

present."

Section 17. Section 30-33-13 NMSA 1978 (being Laws 1963, Chapter 49, Section 2, as amended) is amended to read:

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

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

(1) charging the service to an existing telephone number or credit card number without the authority of the subscriber or the legitimate holder;

(2) charging the service to a nonexistent, false, fictitious or counterfeit telephone number or credit card number or to a suspended, terminated, expired, canceled or revoked telephone number or credit card number;

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

(4) using a code, prearranged scheme or other strategem or device whereby the person in effect sends or receives information; or

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

B. This section shall apply when the telecommunications service either originates or terminates, or both, in this state or when charges for the service would have been billable in normal course by the public utility providing the service in this state but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in this section.

C. Whoever violates this section when the charges for the telecommunications service obtained or attempted to be obtained are two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

D. Whoever violates this section when the charges for the telecommunications service obtained or attempted to be obtained are more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

E. Whoever violates this section when the charges for the telecommunications service obtained or attempted to be obtained are more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of fourth degree felony.

F. Whoever violates this section when the charges

for the telecommunications service obtained or attempted to be obtained are more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

G. Whoever violates this section when the charges for the telecommunications service obtained or attempted to be obtained exceed twenty thousand dollars (\$20,000) is guilty of a second degree felony.

H. It is unlawful for a person under circumstances evidencing an intent to use or employ any instrument, apparatus, equipment or device described in Paragraph (1) of this subsection or to allow the same to be used or employed for the purpose described in Paragraph (1) of this subsection or knowing or having reason to believe that the same is intended to be so used or that the plans and instructions described in Paragraph (2) of this subsection are intended to be used for making or assembling the instrument, apparatus, equipment or device:

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

(a) to obtain telecommunications service in violation of this section; or

(b) to conceal or to assist another to conceal from any supplier of telecommunications service or

from any lawful authority the existence or place of origin or of destination of any telecommunications service; or

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

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

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

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

A. Failing to disclose facts or change of circumstances to obtain public assistance consists of a person knowingly failing to disclose a material fact known to be necessary to determine eligibility for public assistance or knowingly failing to disclose a change in circumstances for the purpose of obtaining or continuing to receive public assistance to which the person is not entitled or in amounts

greater than that to which the person is entitled.

B. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is two hundred fifty dollars (\$250) or less in any twelve consecutive months is guilty of a petty misdemeanor.

C. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) in any twelve consecutive months is guilty of a misdemeanor.

D. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) in any twelve consecutive months is guilty of a fourth degree felony.

E. Whoever commits failing to disclose facts or change of circumstances to obtain public assistance when the value of the assistance wrongfully received is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) in any twelve consecutive months is guilty of a third degree felony.

F. Whoever commits failing to disclose facts or

change of circumstances to obtain public assistance when the value of the assistance wrongfully received exceeds twenty thousand dollars (\$20,000) in any twelve consecutive months is guilty of a second degree felony."

Section 19. Section 30-40-2 NMSA 1978 (being Laws 1979, Chapter 170, Section 2, as amended) is amended to read:

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

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

B. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits unlawful use of food stamp identification card or medical identification card when the value of the food stamps or medical services wrongfully received is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

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

Section 20. Section 30-40-3 NMSA 1978 (being Laws 1979, Chapter 170, Section 3, as amended) is amended to read:

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

A. Misappropriating public assistance consists of

a public officer or public employee fraudulently misappropriating, attempting to misappropriate or aiding and abetting in the misappropriation of food stamp coupons, WIC checks pertaining to the special supplemental food program for women, infants and children administered by the human services department, food stamp or medical identification cards, public assistance benefits or funds received in exchange for food stamp coupons.

B. Whoever commits misappropriating public assistance when the value of the thing misappropriated is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits misappropriating public assistance when the value of the thing misappropriated is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits misappropriating public assistance when the value of the thing misappropriated is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

degree felony.

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

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

Section 21. Section 30-40-6 NMSA 1978 (being Laws 1979, Chapter 170, Section 6, as amended) is amended to read:

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

A. Failure to reimburse the human services department upon receipt of third party payment consists of knowing failure by a medicaid provider to reimburse the human services department or the department's fiscal agent the amount of payment received from the department for services when the provider receives payment for the same services from a third party.

B. A medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. A medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. A medicaid provider who commits failure to reimburse the human services department upon receipt of third party payment when the value of the payment made by the department is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

Section 22. Section 30-45-3 NMSA 1978 (being Laws 1989, Chapter 215, Section 3) is amended to read:

"30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR EMBEZZLE.--A person who knowingly and willfully accesses or causes to be accessed a computer, computer system, computer network or any part thereof with the intent to obtain, by means of embezzlement or false or fraudulent pretenses, representations or promises, money, property or anything of value, when the:

A. money, property or other thing has a value of two hundred fifty dollars (\$250) or less, is guilty of a petty misdemeanor;

B. money, property or other thing has a value of more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500), is guilty of a misdemeanor;

C. money, property or other thing has a value of more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), is guilty of a fourth degree felony;

D. money, property or other thing has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000), is guilty of a third degree felony; or

E. money, property or other thing has a value of more than twenty thousand dollars (\$20,000), is guilty of a second degree felony."

Chapter 215, Section 4) is amended to read:

"30-45-4. COMPUTER ABUSE.--A person who knowingly, willfully and without authorization, or having obtained authorization, uses the opportunity the authorization provides for purposes to which the authorization does not extend:

A. directly or indirectly alters, changes, damages, disrupts or destroys any computer, computer network, computer property, computer service or computer system, when the:

(1) damage to the computer property or computer service has a value of two hundred fifty dollars (\$250) or less, is guilty of a petty misdemeanor;

(2) damage to the computer property or computer service has a value of more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500), is guilty of a misdemeanor;

(3) damage to the computer property or computer service has a value of more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), is guilty of a fourth degree felony;

(4) damage to the computer property or computer service has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000), is guilty of a third degree felony; or

(5) damage to the computer property or

computer service has a value of more than twenty thousand dollars (\$20,000), is guilty of a second degree felony; or

B. directly or indirectly introduces or causes to be introduced data that the person knows to be false into a computer, computer system, computer network, computer software, computer program, database or any part thereof with the intent of harming the property or financial interests or rights of another person is guilty of a fourth degree felony."

Section 24. Section 30-45-5 NMSA 1978 (being Laws 1989, Chapter 215, Section 5) is amended to read:

"30-45-5. UNAUTHORIZED COMPUTER USE.--A person who knowingly, willfully and without authorization, or having obtained authorization, uses the opportunity the authorization provides for purposes to which the authorization does not extend, directly or indirectly accesses, uses, takes, transfers, conceals, obtains, copies or retains possession of any computer, computer network, computer property, computer service, computer system or any part thereof, when the:

A. damage to the computer property or computer service has a value of two hundred fifty dollars (\$250) or less, is guilty of a petty misdemeanor;

B. damage to the computer property or computer service has a value of more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500), is guilty of a misdemeanor;

C. damage to the computer property or computer service has a value of more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), is guilty of a fourth degree felony;

D. damage to the computer property or computer service has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000), is guilty of a third degree felony; or

E. damage to the computer property or computer service has a value of more than twenty thousand dollars (\$20,000), is guilty of a second degree felony."

Section 25. Section 30-47-6 NMSA 1978 (being Laws 1990, Chapter 55, Section 6) is amended to read:

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

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

B. Whoever commits exploitation of a resident's property when the value of the property exploited is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor.

C. Whoever commits exploitation of a resident's property when the value of the property exploited is over two

hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor.

D. Whoever commits exploitation of a resident's property when the value of the property exploited is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony.

E. Whoever commits exploitation of a resident's property when the value of the property exploited is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony.

F. Whoever commits exploitation of a resident's property when the value of the property exploited is over twenty thousand dollars (\$20,000) is guilty of a second degree felony."

Section 26. Section 30-50-4 NMSA 1978 (being Laws 1995, Chapter 37, Section 4) is amended to read:

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

A. money, property or thing has a value of two hundred fifty dollars (\$250) or less, is guilty of a petty

misdemeanor;

B. money, property or thing has a value of more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500), is guilty of a misdemeanor;

C. money, property or thing has a value of more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500), is guilty of a fourth degree felony;

D. money, property or thing has a value of more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000), is guilty of a third degree felony; or

E. money, property or thing has a value of more than twenty thousand dollars (\$20,000), is guilty of a second degree felony."

Section 27. Section 59A-16-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 290) is amended to read:

"59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS.--

A. An agent, broker, solicitor, examining physician, applicant or other person shall not knowingly or willfully:

(1) make a false or fraudulent statement or representation as to a material fact in or with reference to an application for insurance or other coverage;

(2) for the purpose of obtaining money or benefit, present or cause to be presented a false or fraudulent claim or proof in support of such a claim for payment of loss under a policy;

(3) prepare, make or subscribe a false or fraudulent account, certificate, affidavit or proof of loss or other document with intent that the same may be presented or used in support of such a claim; or

(4) make a false or fraudulent statement or representation on or relative to an application for a policy for the purpose of obtaining a fee, commission or benefit from an insurer, agent, broker or individual.

B. A false statement or representation made under oath shall constitute and be punishable as perjury. A violation of the provisions of this section when the purported loss or potential loss to the victim insurer is:

(1) two hundred fifty dollars (\$250) or less is a petty misdemeanor;

(2) over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is a misdemeanor;

(3) over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is a fourth degree felony;

(4) over two thousand five hundred dollars

(\$2,500) but not more than twenty thousand dollars (\$20,000)

is a third degree felony; or

(5) over twenty thousand dollars (\$20,000)

is a second degree felony."

Section 28. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2006. _____

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