

AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 514.030 is amended to read as follows:

- (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
 - (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
 - (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.
- (2) Theft by unlawful taking or disposition is a Class A misdemeanor unless:
 - (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;
 - (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense;
 - (c) The property is one (1) or more controlled substances valued collectively at less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (d) The value of the property is ***two thousand dollars (\$2,000)***~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (e) The value of the property is ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony;
 - (f) The value of the property is one million dollars (\$1,000,000) or more but less than ten million dollars (\$10,000,000), in which case it is a Class B felony; or
 - (g) The value of the property is ten million dollars (\$10,000,000) or more, in

which case it is a Class B felony.

- (3) Any person convicted under subsection (2)(g) of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed, any statute to the contrary notwithstanding.

➔Section 2. KRS 514.040 is amended to read as follows:

- (1) A person is guilty of theft by deception when the person obtains property or services of another by deception with intent to deprive the person thereof. A person deceives when the person intentionally:
 - (a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;
 - (b) Prevents another from acquiring information which would affect judgment of a transaction;
 - (c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
 - (d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which the person transfers or encumbers in consideration for the property obtained, whether the impediment is or is not valid or is or is not a matter of official record; or
 - (e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
- (2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.
- (3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.
- (4) For purposes of subsection (1) of this section, a maker of a check or similar sight

order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

- (a) The maker had no account with the drawee at the time the check or order was issued; or
 - (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted bad check handling fee not to exceed fifty dollars (\$50) and any fee imposed pursuant to subsection (5) of this section.
- (5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of fifty dollars (\$50), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of

the county.

- (6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.
- (7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.
- (8) Theft by deception is a Class A misdemeanor unless the value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is:
 - (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
 - (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 3. KRS 514.050 is amended to read as follows:

- (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid, or delivered by mistake when:
 - (a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and
 - (b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.
- (2) Theft of property lost, mislaid, or delivered by mistake is a Class A misdemeanor unless the value of the property is:
 - (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
 - (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 4. KRS 514.060 is amended to read as follows:

- (1) A person is guilty of theft of services when:
 - (a) The person intentionally obtains services by deception or threat or by false token or other means to avoid payment for the services which he knows are available only for compensation;
 - (b) The person intentionally obtains wireless communications services or access to services by any of the following means:
 1. Unauthorized interception of any electronic serial number, mobile identification number, personal identification number, or like identifying number;
 2. Unauthorized interception of any cellular service or personal communications service as terms may be defined in 47 C.F.R. parts 22 and 24 respectively;
 3. Unauthorized interception of any similar telephone service; or
 4. Use of deception, threat, or other means to avoid payment for the services which the person knows are available only for charge or compensation; or
 - (c) Having control over or unauthorized access to the use of the services of others to which the person is not entitled, the person intentionally diverts the services to the person's own benefit or the benefit of another not entitled thereto.
- (2) Where compensation for services is ordinarily paid immediately upon the rendering of the services, as in the case of hotels and restaurants, refusal to pay or absconding without payment or offer to pay shall be prima facie evidence that the services were obtained by deception as to intention to pay.
- (3) In any prosecution for theft of gas, water, electricity, or other public service, where the utility supplying the service had installed a meter or other device to record the amount of service supplied, proof that:
 - (a) The meter or other device has been altered, tampered with, or bypassed in a

manner so as to prevent or reduce the recording thereof; or

- (b) Service has been, after having been disconnected by the utility supplying service, reconnected without authorization of the utility

shall be prima facie evidence of the intent to commit theft of service by the person or persons obligated to pay for service supplied through the meter or other device.

- (4) Theft of services is a Class A misdemeanor unless the value of the service is:
- (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
- (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 5. KRS 514.070 is amended to read as follows:

- (1) A person is guilty of theft by failure to make required disposition of property received when:
- (a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and
- (b) He intentionally deals with the property as his own and fails to make the required payment or disposition.
- (2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.
- (3) An officer or employee of the government or of a financial institution is presumed:
- (a) To know any legal obligation relevant to his criminal liability under this section; and
- (b) To have dealt with the property as his own when:
1. He fails to account or pay upon lawful demand; or
 2. An audit reveals a shortage or falsification of accounts.
- (4) Theft by failure to make required disposition of property received is a Class A

misdemeanor unless the value of the property is:

- (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
 - (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.
- (5) No person shall be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of KRS 522.050 arising out of the same incident.

➔Section 6. KRS 514.080 is amended to read as follows:

- (1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:
- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
 - (b) Accuse anyone of a criminal offense; or
 - (c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or
 - (d) Use wrongfully his position as a public officer or servant or employee by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in a manner affecting some person adversely; or
 - (e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
 - (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.
- (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit, or other official action

relates, or as compensation for property or lawful services.

- (3) Theft by extortion is a Class A misdemeanor unless the value of the property obtained is:

- (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
- (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 7. KRS 514.090 is amended to read as follows:

- (1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

- (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

- (a) The issuer had no account with the drawee at the time the check or order was issued; or
- (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.

- (3) Theft of labor already rendered is a Class A misdemeanor unless the value of the labor rendered is:

- (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or
- (b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔Section 8. KRS 514.110 is amended to read as follows:

- (1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to

believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

- (2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.
- (3) Receiving stolen property is a Class A misdemeanor unless:
 - (a) The value of the property is two thousand dollars (\$2,000)~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;
 - (c) The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or
 - (d) The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.

➔Section 9. KRS 514.120 is amended to read as follows:

- (1) A person is guilty of obscuring the identity of a machine or other property when he or she:
 - (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, upon any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property, including any part thereof, with intent to render it or other property unidentifiable; or

- (b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property, including any part thereof, knowing that the serial number or other identification number or mark, including property marked with a Social Security number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured.
- (2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property, including any part thereof, on which the serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.
- (3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Department of Kentucky State Police, through any law enforcement agency in the county of his or her residence, for assignment of a number for the property providing he or she can show that he or she is the lawful owner of the property pursuant to the provisions of this section and KRS 16.200 and 500.090. If a number is issued in conformity with the provisions of this section and KRS 16.200 and 500.090, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.
- (4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is:
- (a) **Two thousand dollars (\$2,000)**~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; or

(b) Ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.

➔SECTION 10. A NEW SECTION OF KRS CHAPTER 514 IS CREATED TO READ AS FOLLOWS:

(1) A person who has been convicted of a misdemeanor violation of Section 1, 2, 3, 4, 5, 6, 7, 8, or 9 of this Act shall be sentenced:

(a) If the value of the property, sight order, check, service, or labor is less than five hundred dollars (\$500), in accordance with KRS Chapter 532; or

(b) If the value of the property, sight order, check, service, or labor is five hundred dollars (\$500) or more, but less than two thousand dollars (\$2,000):

1. If the person has made complete restitution to the victim prior to the date of sentencing, to probation; or

2. If the person has not made complete restitution to the victim prior to the date of sentencing, to probation with an alternative sentence, which shall include incarceration with work release for the lesser of thirty (30) days from the date of sentencing, or until restitution to the victim is complete.

(2) For a person sentenced under this section, probation, probation with an alternative sentence, or other form of alternative to incarceration:

(a) Shall require payment of restitution; and

(b) May include a community-based, faith-based, charitable, church-sponsored, or nonprofit residential or nonresidential counseling and treatment program or drug court, and, upon petition by the defendant, the court may sentence or permit the defendant to attend that program.