

HOUSE No. 00423

The Commonwealth of Massachusetts

PRESENTED BY:

Viriato Manuel deMacedo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

"An Act Relative to Prohibiting theft or embezzlement from nonprofits or Charitable Organizations."

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>

HOUSE No. 00423

By Mr. Viriato Manuel deMacedo of Plymouth, petition (accompanied by bill, House, No. 00423) of James M. Cantwell and others relative to prohibiting theft or embezzlement from nonprofit or charitable organizations. Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

"An Act Relative to Prohibiting theft or embezzlement from nonprofits or Charitable Organizations."

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 266 of the General Laws, as appearing in the 2008 Official Edition, is
2 hereby

3 amended by inserting after section 59, the following section:-

4 Section 59A. For the purposes of this section the following words shall have the following
5 meanings:-

6 (a)“Nonprofit association”, an entity which is organized as a nonprofit corporation or nonprofit
7 unincorporated association under the laws of the commonwealth or the United States or any
8 entity which

9 is authorized to do business in the commonwealth as a nonprofit corporation or unincorporated

10 association under the laws of the commonwealth.

11 “Charitable organization”, any person or entity whose purposes or actual operation are charitable

12 in

13 nature or one holding himself out to be a charitable organization in whole or in part, including

14 any person

15 or entity who in any manner employs a charitable appeal as the basis of any solicitation.

16 (b)Whoever steals or with intent to defraud obtains by a false pretense, or whoever unlawfully,

17 and with

18 intent to steal or embezzle, converts, or secretes with intent to convert, the money, goods or

19 property of a

20 nonprofit association or charitable organization, whether such property is or is not in his

21 possession at the

22 time of such conversion or secreting, shall be guilty of larceny, and shall, (1) if the value of the

23 money,

24 goods or property exceeds \$250 and does not exceed \$10,000, be punished by imprisonment in

25 the state

26 prison for no less than 30 days; (2) if the value of the money, goods or property exceeds \$10,000

27 and does

28 not exceed \$50,000, be punished by imprisonment in the state prison for no less than 6 months;

29 (3) if the

30 value of the money, goods or property exceeds \$50,000, be punished by imprisonment in the
31 state for no

32 less than 2 years. Upon release, an individual sentenced to a term of incarceration under this
33 section shall

34 be subject to a 2 year term of probation.

35 A person found guilty of violating this section shall, in addition to any other punishment, be
36 ordered to

37 make full restitution to the nonprofit association or charitable organization for the financial loss
38 sustained

39 as a result of the commission of the crime except as hereinafter provided. Restitution shall be
40 imposed in

41 addition to incarceration. The court shall order the defendant to make restitution within a
42 reasonable

43 period of time, provided that full restitution shall be made within 2 years from the date of
44 conviction.

45 If a defendant who is required to make restitution defaults in any payment of restitution or
46 installment

47 thereof, the court may hold him in contempt unless said defendant has made a good faith effort to
48 make

49 restitution. If the defendant has made such good faith effort, the court may, upon motion of the
50 defendant,

51 modify the order requiring restitution by:

52 (a) providing for additional time to make any payment in restitution;

53 (b) providing a payment plan.

54 If the defendant has failed to make a good faith effort to pay restitution, the court may seize and
55 liquidate

56 properties and other assets owned by the defendant.

57 Restitution shall not be authorized to a party whom the court determines to be aggrieved, without

58 such

59 party's consent.