

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 141*
Committee Substitute Favorable 2/26/97

Short Title: Embezzlement/Increase Penalty.

(Public)

Sponsors:

Referred to:

February 13, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO IMPLEMENT THE NORTH CAROLINA SENTENCING AND POLICY
3 ADVISORY COMMISSION'S RECOMMENDATION TO INCREASE THE
4 CRIMINAL PENALTY FOR CERTAIN EMBEZZLEMENT OFFENSES.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 14-74 reads as rewritten:

7 **"§ 14-74. Larceny by servants and other employees.**

8 If any servant or other employee, to whom any money, goods or other chattels, or any
9 of the articles, securities or choses in action mentioned in the following section [G.S. 14-
10 75], by his master shall be delivered safely to be kept to the use of his master, shall
11 withdraw himself from his master and go away with such money, goods or other chattels,
12 or any of the articles, securities or choses in action mentioned as aforesaid, or any part
13 thereof, with intent to steal the same and defraud his master thereof, contrary to the trust
14 and confidence in him reposed by his said master; or if any servant, being in the service
15 of his master, without the assent of his master, shall embezzle such money, goods or
16 other chattels, or any of the articles, securities or choses in action mentioned as
17 aforesaid, or any part thereof, or otherwise convert the same to his own use, with like
18 purpose to steal them, or to defraud his master thereof, the servant so offending shall be
19 ~~punished as a Class H felon;~~ guilty of a felony: Provided, that nothing contained in this

1 section shall extend to apprentices or servants within the age of 16 years. If the value of
2 the money, goods, or other chattels, or any of the articles, securities, or choses in action
3 mentioned in G.S. 14-75, is one hundred thousand dollars (\$100,000) or more, the person
4 is guilty of a Class C felony. If the value of the money, goods, or other chattels, or any of
5 the articles, securities, or choses in action mentioned in G.S. 14-75, is less than one
6 hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

7 Section 2. G.S. 14-90 reads as rewritten:

8 **"§ 14-90. Embezzlement of property received by virtue of office or employment.**

9 If any person exercising a public trust or holding a public office, or any guardian,
10 administrator, executor, trustee, or any receiver, or any other fiduciary, or any officer or
11 agent of a corporation, or any agent, consignee, clerk, bailee or servant, except persons
12 under the age of 16 years, of any person, shall embezzle or fraudulently or knowingly and
13 willfully misapply or convert to his own use, or shall take, make away with or secrete,
14 with intent to embezzle or fraudulently or knowingly and willfully misapply or convert to
15 his own use any money, goods or other chattels, bank note, check or order for the
16 payment of money issued by or drawn on any bank or other corporation, or any treasury
17 warrant, treasury note, bond or obligation for the payment of money issued by the United
18 States or by any state, or any other valuable security whatsoever belonging to any other
19 person or corporation, unincorporated association or organization which shall have come
20 into his possession or under his care, he shall be ~~punished as a Class H felon.~~ guilty of a
21 felony. If the value of the property is one hundred thousand dollars (\$100,000) or more,
22 the person is guilty of a Class C felony. If the value of the property is less than one
23 hundred thousand dollars (\$100,000), the person is guilty of a Class H felony."

24 Section 3. G.S. 14-91 reads as rewritten:

25 **"§ 14-91. Embezzlement of State property by public officers and employees.**

26 If any officer, agent, or employee of the State, or other person having or holding in
27 trust for the same any bonds issued by the State, or any security, or other property and
28 effects of the same, shall embezzle or knowingly and willfully misapply or convert the
29 same to his own use, or otherwise willfully or corruptly abuse such trust, such offender
30 and all persons knowingly and willfully aiding and abetting or otherwise assisting therein
31 shall be ~~punished as a Class F felon.~~ guilty of a felony. If the value of the property is one
32 hundred thousand dollars (\$100,000) or more, a violation of this section is a Class C
33 felony. If the value of the property is less than one hundred thousand dollars (\$100,000),
34 a violation of this section is a Class F felony."

35 Section 4. G.S. 14-92 reads as rewritten:

36 **"§ 14-92. Embezzlement of funds by public officers and trustees.**

37 If an officer, agent, or employee of an entity listed below, or a person having or
38 holding money or property in trust for one of the listed entities, shall embezzle or
39 otherwise willfully and corruptly use or misapply the same for any purpose other than
40 that for which such moneys or property is held, such person shall be ~~punished as a Class F~~
41 ~~felon.~~ guilty of a felony. If the value of the money or property is one hundred thousand
42 dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the
43 money or property is less than one hundred thousand dollars (\$100,000), the person is

1 guilty of a Class F felony. If any clerk of the superior court or any sheriff, treasurer,
2 register of deeds or other public officer of any county, unit or agency of local
3 government, or local board of education shall embezzle or wrongfully convert to his own
4 use, or corruptly use, or shall misapply for any purpose other than that for which the same
5 are held, or shall fail to pay over and deliver to the proper persons entitled to receive the
6 same when lawfully required so to do, any moneys, funds, securities or other property
7 which such officer shall have received by virtue or color of his office in trust for any
8 person or corporation, such officer shall be ~~punished as a Class F felon.~~ guilty of a felony.
9 If the value of the money, funds, securities, or other property is one hundred thousand
10 dollars (\$100,000) or more, the person is guilty of a Class C felony. If the value of the
11 money, funds, securities, or other property is less than one hundred thousand dollars
12 (\$100,000), the person is guilty of a Class F felony. The provisions of this section shall
13 apply to all persons who shall go out of office and fail or neglect to account to or deliver
14 over to their successors in office or other persons lawfully entitled to receive the same all
15 such moneys, funds and securities or property aforesaid. The following entities are
16 protected by this section: a county, a city or other unit or agency of local government, a
17 local board of education, and a penal, charitable, religious, or educational institution."

18 Section 5. G.S. 14-93 reads as rewritten:

19 **"§ 14-93. Embezzlement by treasurers of charitable and religious organizations.**

20 If any treasurer or other financial officer of any benevolent or religious institution,
21 society or congregation shall lend any of the moneys coming into his hands to any other
22 person or association without the consent of the institution, association or congregation to
23 whom such moneys belong; or, if he shall fail to account for such moneys when called
24 on, he shall be guilty of a ~~Class H felony.~~ If the violation of this section involves money
25 with a value of one hundred thousand dollars (\$100,000) or more, the person is guilty of a
26 Class C felony. If the violation of this section involves money with a value of less than
27 one hundred thousand dollars (\$100,000), a violation of this section is a Class H felony."

28 Section 6. G.S. 14-94 reads as rewritten:

29 **"§ 14-94. Embezzlement by officers of railroad companies.**

30 If any president, secretary, treasurer, director, engineer, agent or other officer of any
31 railroad company shall embezzle any moneys, bonds or other valuable funds or securities,
32 with which such president, secretary, treasurer, director, engineer, agent or other officer
33 shall be charged by virtue of his office or agency, or shall in any way, directly or
34 indirectly, apply or appropriate the same for the use or benefit of himself or any other
35 person, state or corporation, other than the company of which he is president, secretary,
36 treasurer, director, engineer, agent or other officer, for every such offense the person so
37 offending shall be guilty of a felony, and on conviction in the superior or criminal court
38 of any county through which the railroad of such company shall pass, shall be punished
39 as a ~~Class H felon.~~ If the value of the money, bonds, or other valuable funds or securities
40 is one hundred thousand dollars (\$100,000) or more, a violation of this section is a Class
41 C felony. If the value of the money, bonds, or other valuable funds or securities has
42 value of less than one hundred thousand dollars (\$100,000), a violation of this section is a
43 Class H felony."

1 Section 7. G.S. 14-97 reads as rewritten:

2 **"§ 14-97. Appropriation of partnership funds by partner to personal use.**

3 Any person engaged in a partnership business in the State of North Carolina who
4 shall, without the knowledge and consent of his copartner or copartners, take funds
5 belonging to the partnership business and appropriate the same to his own personal use
6 with the fraudulent intent of depriving his copartners of the use thereof, shall be guilty of
7 a ~~Class H~~-felony. Appropriation of partnership funds with a value of one hundred
8 thousand dollars (\$100,000) or more by a partner is a Class C felony. Appropriation of
9 partnership funds with a value of less than one hundred thousand dollars (\$100,000) by a
10 partner is a Class H felony."

11 Section 8. G.S. 14-98 reads as rewritten:

12 **"§ 14-98. Embezzlement by surviving partner.**

13 If any surviving partner shall willfully and intentionally convert any of the property,
14 money or effects belonging to the partnership to his own use, and refuse to account for
15 the same on settlement, he shall be ~~punished as a Class H felon~~-guilty of a felony. If the
16 property, money, or effects has a value of one hundred thousand dollars (\$100,000) or
17 more, a violation of this section is a Class C felony. If the property, money, or effects has
18 a value of less than one hundred thousand dollars (\$100,000), a violation of this section is
19 a Class H felony."

20 Section 9. G.S. 14-99 reads as rewritten:

21 **"§ 14-99. Embezzlement of taxes by officers.**

22 If any officer appropriates to his own use the State, county, school, city or town taxes,
23 he shall be guilty of embezzlement, and shall be punished as a ~~Class F~~-felon. If the value
24 of the taxes is one hundred thousand dollars (\$100,000) or more, a violation of this
25 section is a Class C felony. If the value of the taxes is less than one hundred thousand
26 dollars (\$100,000), a violation of this section is a Class F felony."

27 Section 10. G.S. 14-100(a) reads as rewritten:

28 "(a) If any person shall knowingly and designedly by means of any kind of false
29 pretense whatsoever, whether the false pretense is of a past or subsisting fact or of a
30 future fulfillment or event, obtain or attempt to obtain from any person within this State
31 any money, goods, property, services, chose in action, or other thing of value with intent
32 to cheat or defraud any person of such money, goods, property, services, chose in action
33 or other thing of value, such person shall be guilty of a ~~felony, and shall be punished as a~~
34 ~~Class H felon~~-felony: Provided, that if, on the trial of anyone indicted for such crime, it
35 shall be proved that he obtained the property in such manner as to amount to larceny or
36 embezzlement, the jury shall have submitted to them such other felony proved; and no
37 person tried for such felony shall be liable to be afterwards prosecuted for larceny or
38 embezzlement upon the same facts: Provided, further, that it shall be sufficient in any
39 indictment for obtaining or attempting to obtain any such money, goods, property,
40 services, chose in action, or other thing of value by false pretenses to allege that the party
41 accused did the act with intent to defraud, without alleging an intent to defraud any
42 particular person, and without alleging any ownership of the money, goods, property,
43 services, chose in action or other thing of value; and upon the trial of any such

1 indictment, it shall not be necessary to prove either an intent to defraud any particular
2 person or that the person to whom the false pretense was made was the person defrauded,
3 but it shall be sufficient to allege and prove that the party accused made the false pretense
4 charged with an intent to defraud. If the value of the money, goods, property, services,
5 chose in action, or other thing of value is one hundred thousand dollars (\$100,000) or
6 more, a violation of this section is a Class C felony. If the value of the money, goods,
7 property, services, chose in action, or other thing of value is less than one hundred
8 thousand dollars (\$100,000), a violation of this section is a Class H felony."

9 Section 11. G.S. 53-129 reads as rewritten:

10 **"§ 53-129. Misapplication, embezzlement of funds, etc.**

11 Whoever being an officer, employee, agent or director of a bank, with intent to
12 defraud or injure the bank, or any person or corporation, or to deceive an officer of the
13 bank or an agent appointed to examine the affairs of such bank, embezzles, abstracts, or
14 misapplies any of the money, funds, credit or property of such bank, whether owned by it
15 or held in trust, or who, with such intent, willfully and fraudulently issues or puts forth a
16 certificate of deposit, draws an order or bill of exchange, makes an acceptance, assigns a
17 note, bond, draft, bill of exchange, mortgage, judgment, decree or fictitiously borrows or
18 solicits, obtains or receives money for a bank not in good faith, intended to become the
19 property of such bank; or whoever being an officer, employee, agent, or director of a
20 bank, makes or permits the making of a false statement or certificate, as to a deposit, trust
21 fund or contract, or makes or permits to be made a false entry in a book, report, statement
22 or record of such bank, or conceals or permits to be concealed by any means or manner,
23 the true and correct entries of said bank, or its true and correct transactions, who
24 knowingly loans, or permits to be loaned, the funds or credit of any bank to any insolvent
25 company or corporation, or corporation which has ceased to exist, or which never had
26 any existence, or upon collateral consisting of stocks or bonds of such company or
27 corporation, or who makes or publishes or knowingly permits to be made or published a
28 false report, statement or certificate as to the true financial condition of such bank, shall
29 be ~~punished as a Class H felon.~~ guilty of a felony. If an offense committed under this
30 section involves money, funds, credit, or property with a value of one hundred thousand
31 dollars (\$100,000) or more, it is a Class C felony. If an offense committed under this
32 section involves money, funds, credit, or property with a value of less than one hundred
33 thousand dollars (\$100,000), it is a Class H felony. Any other offense committed under
34 this section is a Class H felony."

35 Section 12. G.S. 58-2-162 reads as rewritten:

36 **"§ 58-2-162. Embezzlement by insurance agents, brokers, or administrators.**

37 If any insurance agent, broker, or administrator embezzles or fraudulently converts to
38 his own use, or, with intent to use or embezzle, takes, secretes, or otherwise disposes of,
39 or fraudulently withholds, appropriates, lends, invests, or otherwise uses or applies any
40 money, negotiable instrument, or other consideration received by him in his performance
41 as an agent, broker, or administrator, he shall be ~~punished as a Class H felon.~~ guilty of a
42 felony. If the value of the money, negotiable instrument, or other consideration is one
43 hundred thousand dollars (\$100,000) or more, violation of this section is a Class C

1 felony. If the value of the money, negotiable instrument, or other consideration is less
2 than one hundred thousand dollars (\$100,000), violation of this section is a Class H
3 felony."

4 Section 13. G.S. 90-210.70(a) reads as rewritten:

5 "(a) Anyone who embezzles or who fraudulently, or knowingly and willfully
6 misapplies, or in any manner converts preneed funeral funds to his own use, or for the use
7 of any partnership, corporation, association, or entity for any purpose other than as
8 authorized by this Article; or anyone who takes, makes away with or secretes, with intent
9 to embezzle or fraudulently or knowingly and willfully misapply or in any manner
10 convert preneed funeral funds for his own use or the use of any other person for any
11 purpose other than as authorized by this Article shall be ~~punished as a Class H felon~~ guilty
12 of a felony. If the value of the preneed funeral funds is one hundred thousand dollars
13 (\$100,000) or more, violation of this section is a Class C felony. If the value of the
14 preneed funeral funds is less than one hundred thousand dollars (\$100,000), violation of
15 this section is a Class H felony. Each such embezzlement, conversion, or misapplication
16 shall constitute a separate offense and may be prosecuted individually. Upon conviction,
17 all licenses issued under this Article shall be revoked."

18 Section 14. This act becomes effective December 1, 1997, and applies to
19 offenses committed on or after that date.