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HOUSE BILL 514

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Hector H. Balderas

FOR THE CORRECTIONS OVERSIGHT, COURTS AND JUSTICE COMMITTEE

AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING AN EQUITABLE  
SCHEDULE OF SENTENCING FOR CERTAIN OFFENSES; AMENDING SECTIONS  
OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-1-73 NMSA 1978 (being Laws 1965,  
Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. FALSE STATEMENT AND FRAUD. -- [~~Any individual or~~]

A. A person who:

~~[A.]~~ (1) willfully makes and subscribes any  
return, statement or other document that contains or is  
verified by a written declaration that it is true and correct  
as to every material matter and that the [~~individual or~~] person  
does not believe to be true and correct as to every material  
matter;

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1                    ~~[B.-]~~ (2) files any return electronically,  
2 knowing the information in the return is not true and correct  
3 as to every material matter; or

4                    ~~[C.-]~~ (3) with intent to evade or defeat the  
5 payment or collection of any tax, or, knowing that the probable  
6 consequences of the person's act will be to evade or defeat the  
7 payment or collection of any tax, removes, conceals or releases  
8 any property on which levy is authorized or that is liable for  
9 payment of tax under the provisions of Section 7-1-61 NMSA  
10 1978, or aids in accomplishing or causes the accomplishment of  
11 any of the foregoing is guilty of ~~[a felony and, upon~~  
12 ~~conviction thereof, shall be fined not more than five thousand~~  
13 ~~dollars (\$5,000) or imprisoned not less than six months or more~~  
14 ~~than three years, or both, together with costs of prosecution]~~  
15 tax fraud.

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

20                    C. Whoever commits tax fraud when the amount of the  
21 tax owed is over two hundred fifty dollars (\$250) but not more  
22 than one thousand dollars (\$1,000) is guilty of a misdemeanor  
23 and shall be sentenced pursuant to the provisions of Section  
24 31-19-1 NMSA 1978.

25                    D. Whoever commits tax fraud when the amount of the

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

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

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

14 G. In addition to the fines imposed pursuant to  
15 this section, a person who commits tax fraud shall pay the  
16 costs of the prosecution of his case."

17 Section 2. Section 30-15-1 NMSA 1978 (being Laws 1963,  
18 Chapter 303, Section 15-1) is amended to read:

19 "30-15-1. CRIMINAL DAMAGE TO PROPERTY. --

20 A. Criminal damage to property consists of  
21 intentionally damaging any real or personal property of another  
22 without the consent of the owner of the property.

23 B. Whoever commits criminal damage to property [is  
24 guilty of a petty misdemeanor, except that when the damage to  
25 the property amounts to more than one thousand dollars

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1 ~~(\$1,000), he is guilty of a fourth degree felony]~~ when the  
2 damage to the property is two hundred fifty dollars (\$250) or  
3 less is guilty of a petty misdemeanor.

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

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

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

16 F. Whoever commits criminal damage to property when  
17 the damage to the property is over twenty thousand dollars  
18 (\$20,000) is guilty of a second degree felony."

19 Section 3. Section 30-15-1.1 NMSA 1978 (being Laws 1990,  
20 Chapter 36, Section 1, as amended) is amended to read:

21 "30-15-1.1. UNAUTHORIZED GRAFFITI ON PERSONAL OR REAL  
22 PROPERTY. --

23 A. Graffiti consists of intentionally and  
24 maliciously defacing any real or personal property of another  
25 with graffiti or other inscribed material inscribed with ink,

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1 paint, spray paint, crayon, charcoal or the use of any object  
2 without ~~[the]~~ consent or reasonable ~~[ground]~~ grounds to believe  
3 ~~[there is consent of]~~ the owner of the property has given  
4 consent.

5 B. Whoever commits graffiti to real or personal  
6 property when the damage to the property is ~~[one thousand~~  
7 ~~dollars (\$1,000)]~~ two hundred fifty dollars (\$250) or less is  
8 guilty of a petty misdemeanor and shall be required to perform  
9 a mandatory one hundred hours of community service within a  
10 continuous six-month period immediately following his  
11 conviction and shall be required to ~~[make]~~ provide restitution  
12 to the property owner for the cost of damages and restoration.

13 C. Whoever commits graffiti to real or personal  
14 property when the damage to the property is ~~[greater than one~~  
15 ~~thousand dollars (\$1,000) is guilty of a fourth degree felony]~~  
16 over two hundred fifty dollars (\$250) but not more than one  
17 thousand dollars (\$1,000) is guilty of a misdemeanor and shall  
18 be required to perform a mandatory one hundred sixty hours of  
19 community service within a continuous eight-month period  
20 immediately following his conviction and shall be required to  
21 provide restitution to the property owner for the cost of  
22 damages and restoration ~~[as a condition of probation or~~  
23 ~~following any term of incarceration as a condition of parole]~~.

24 D. Whoever commits graffiti to real or personal  
25 property when the damage to the property is over one thousand

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1 dollars (\$1,000) but not more than two thousand five hundred  
2 dollars (\$2,500) is guilty of a fourth degree felony and shall  
3 be required to perform a mandatory two hundred forty hours of  
4 community service following his conviction and shall be  
5 required to provide restitution to the property owner for the  
6 cost of damages and restoration.

7 E. Whoever commits graffiti to real or personal  
8 property when the damage to the property is over two thousand  
9 five hundred dollars (\$2,500) but not more than twenty thousand  
10 dollars (\$20,000) is guilty of a third degree felony and shall  
11 be required to perform a mandatory two hundred forty hours of  
12 community service following his conviction and shall be  
13 required to provide restitution to the property owner for the  
14 cost of damages and restoration.

15 F. Whoever commits graffiti to real or personal  
16 property when the damage to the property is over twenty  
17 thousand dollars (\$20,000) is guilty of a second degree felony  
18 and shall be required to perform a mandatory two hundred forty  
19 hours of community service following his conviction and shall  
20 be required to provide restitution to the property owner for  
21 the cost of damages and restoration.

22 [~~D.~~] G. When a single occurrence of graffiti is  
23 committed by more than one individual, the court may apportion  
24 the amount of restitution owed by each offender in accordance  
25 with each offender's degree of culpability. "

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1           Section 4. Section 30-15-4 NMSA 1978 (being Laws 1963,  
2 Chapter 303, Section 15-3, as amended) is amended to read:

3           "30-15-4. DESECRATION OF A CHURCH. --

4           A. Desecration of a church consists of willfully,  
5 maliciously and intentionally defacing a church or any portion  
6 [thereof] of it.

7           B. Whoever commits desecration of a church [is  
8 guilty of a misdemeanor, except that when the damage to the  
9 church amounts to more than one thousand dollars (\$1,000), he  
10 is guilty of a fourth degree felony] when the damage to the  
11 church is two hundred fifty dollars (\$250) or less is guilty of  
12 a petty misdemeanor.

13           C. Whoever commits desecration of a church when the  
14 damage to the church is over two hundred fifty dollars (\$250)  
15 but not more than one thousand dollars (\$1,000) is guilty of a  
16 misdemeanor.

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

21           E. Whoever commits desecration of a church when the  
22 damage to the church is over two thousand five hundred dollars  
23 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
24 guilty of a third degree felony.

25           F. Whoever commits desecration of a church when the

. 151969. 5

1 damage to the church is over twenty thousand dollars (\$20,000)  
2 is guilty of a second degree felony."

3 Section 5. Section 30-16-1 NMSA 1978 (being Laws 1963,  
4 Chapter 303, Section 16-1, as amended) is amended to read:

5 "30-16-1. LARCENY. --

6 A. Larceny consists of the stealing of anything of  
7 value ~~[which]~~ that belongs to another.

8 B. Whoever commits larceny when the value of the  
9 property stolen is ~~[one hundred dollars (\$100)]~~ two hundred  
10 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

11 C. Whoever commits larceny when the value of the  
12 property stolen is over ~~[one hundred dollars (\$100)]~~ two  
13 hundred fifty dollars (\$250) but not more than ~~[two hundred~~  
14 ~~fifty dollars (\$250)]~~ one thousand dollars (\$1,000) is guilty  
15 of a misdemeanor.

16 D. Whoever commits larceny when the value of the  
17 property stolen is over ~~[two hundred fifty dollars (\$250)]~~ one  
18 thousand dollars (\$1,000) but not more than two thousand five  
19 hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

24 F. Whoever commits larceny when the value of the  
25 property stolen is over twenty thousand dollars (\$20,000) is

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1 guilty of a second degree felony.

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

5 H. Whoever commits larceny when the property of  
6 value stolen is a firearm is guilty of a fourth degree felony  
7 when its value is less than two thousand five hundred dollars  
8 (\$2,500). "

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

11 "30-16-6. FRAUD. --

12 A. Fraud consists of the intentional  
13 misappropriation or taking of anything of value ~~[which]~~ that  
14 belongs to another by means of fraudulent conduct, practices or  
15 representations.

16 B. Whoever commits fraud when the value of the  
17 property misappropriated or taken is ~~[one hundred dollars~~  
18 ~~(\$100)]~~ two hundred fifty dollars (\$250) or less is guilty of a  
19 petty misdemeanor.

20 C. Whoever commits fraud when the value of the  
21 property misappropriated or taken is over ~~[one hundred dollars~~  
22 ~~(\$100)]~~ two hundred fifty dollars (\$250) but not more than ~~[two~~  
23 ~~hundred fifty dollars (\$250)]~~ one thousand dollars (\$1,000) is  
24 guilty of a misdemeanor.

25 D. Whoever commits fraud when the value of the

. 151969. 5

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1 property misappropriated or taken is over [~~two hundred fifty~~  
2 ~~dollars (\$250)~~] one thousand dollars (\$1,000) but not more than  
3 [~~twenty-five~~] two thousand five hundred dollars (\$2,500) is  
4 guilty of a fourth degree felony.

5 [~~Whoever commits fraud when the property misappropriated~~  
6 ~~or taken is a firearm is guilty of a fourth degree felony.~~]

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

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

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

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

20 "30-16-7. UNLAWFUL DEALING IN FEDERAL FOOD COUPONS OR WIC  
21 CHECKS. --

22 A. Unlawful dealing in federal food coupons or WIC  
23 checks consists of a person buying, selling, trading, bartering  
24 or possessing food coupons or WIC checks issued by the United  
25 States department of agriculture with the intent to obtain an

. 151969. 5

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1 economic benefit to which he is not entitled under the rules of  
2 the human services department pertaining to the food stamp  
3 program or of the department of health pertaining to the  
4 special supplemental food program for women, infants and  
5 children.

6 B. Whoever commits unlawful dealing in federal food  
7 coupons or WIC checks when the value of the food coupons or WIC  
8 checks involved is [~~one hundred dollars (\$100)~~] two hundred  
9 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

10 C. Whoever commits unlawful dealing in federal food  
11 coupons or WIC checks when the value of the food coupons or WIC  
12 checks involved is over [~~one hundred dollars (\$100)~~] two  
13 hundred fifty dollars (\$250) but not more than [~~two hundred~~  
14 ~~fifty dollars (\$250)~~] one thousand dollars (\$1,000) is guilty  
15 of a misdemeanor.

16 D. Whoever commits unlawful dealing in federal food  
17 coupons or WIC checks when the value of the food coupons or WIC  
18 checks involved is over [~~two hundred fifty dollars (\$250)~~] one  
19 thousand dollars (\$1,000) but not more than two thousand five  
20 hundred dollars (\$2,500) is guilty of a fourth degree felony.

21 E. Whoever commits unlawful dealing in federal food  
22 coupons or WIC checks when the value of the food coupons or WIC  
23 checks involved is over two thousand five hundred dollars  
24 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
25 guilty of a third degree felony.

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

5 G. For the purposes of this section, "federal food  
6 coupons or WIC checks" [~~include~~] includes electronic benefit  
7 transfer cards or any other method through which food stamps or  
8 WIC benefits may be obtained. "

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

11 "30-16-8. EMBEZZLEMENT. --

12 A. Embezzlement consists of [~~the~~] a person  
13 embezzling or converting to his own use [~~of~~] anything of value,  
14 with which he has been entrusted, with fraudulent intent to  
15 deprive the owner thereof. Each separate incident of  
16 embezzlement or conversion constitutes a separate and distinct  
17 offense.

18 B. Whoever commits embezzlement when the value of  
19 the thing embezzled or converted is [~~one hundred dollars~~  
20 ~~(\$100)~~] two hundred fifty dollars (\$250) or less is guilty of a  
21 petty misdemeanor.

22 C. Whoever commits embezzlement when the value of  
23 the thing embezzled or converted is over [~~one hundred dollars~~  
24 ~~(\$100)~~] two hundred fifty dollars (\$250) but not more than [~~two~~  
25 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000) is

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1 guilty of a misdemeanor.

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

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

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

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

16 "30-16-10. FORGERY. --

17 A. Forgery consists of:

18 [~~A.-~~] (1) falsely making or altering any  
19 signature to, or any part of, any writing purporting to have  
20 any legal efficacy with intent to injure or defraud; or

21 [~~B.-~~] (2) knowingly issuing or transferring a  
22 forged writing with intent to injure or defraud.

23 B. Whoever commits forgery [~~is guilty of a third~~  
24 ~~degree felony~~] when there is no quantifiable damage or when the  
25 damage is two hundred fifty dollars (\$250) or less is guilty of

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1 a petty misdemeanor.

2 C. Whoever commits forgery when the damage is over  
3 two hundred fifty dollars (\$250) but not more than one thousand  
4 dollars (\$1,000) is guilty of a misdemeanor.

5 D. Whoever commits forgery when the damage is over  
6 one thousand dollars (\$1,000) but not more than two thousand  
7 five hundred dollars (\$2,500) is guilty of a fourth degree  
8 felony.

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

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

16 Section 10. Section 30-16-11 NMSA 1978 (being Laws 1963,  
17 Chapter 303, Section 16-11, as amended) is amended to read:

18 "30-16-11. RECEIVING STOLEN PROPERTY--PENALTIES.--

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

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

. 151969. 5

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

3 (2) acquires stolen property for a  
4 consideration [~~which~~] that the dealer knows is far below the  
5 property's reasonable value. A dealer shall be presumed to  
6 know the fair market value of the property in which he deals;  
7 or

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

11 C. For the purposes of this section:

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

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

17 D. Whoever commits receiving stolen property when  
18 the value of the property is [~~one hundred dollars (\$100)~~] two  
19 hundred fifty dollars (\$250) or less is guilty of a petty  
20 misdemeanor.

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

. 151969. 5

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

6 G. Whoever commits receiving stolen property when  
7 the value of the property is over two thousand five hundred  
8 dollars (\$2,500) but not more than twenty thousand dollars  
9 (\$20,000) is guilty of a third degree felony.

10 H. Whoever commits receiving stolen property when  
11 the value of the property exceeds twenty thousand dollars  
12 (\$20,000) is guilty of a second degree felony.

13 I. Whoever commits receiving stolen property when  
14 the property is a firearm is guilty of a fourth degree felony  
15 when its value is less than two thousand five hundred dollars  
16 (\$2,500). "

17 Section 11. Section 30-16-13 NMSA 1978 (being Laws 1963,  
18 Chapter 303, Section 16-13) is amended to read:

19 "30-16-13. CHEATING A MACHINE OR DEVICE. --

20 A. Cheating a machine or device consists of [~~any~~] a  
21 person, with intent to defraud, attempting to operate or  
22 causing to be operated any automatic vending machine, parking  
23 meter, coin-box telephone or any machine or [~~receptable~~]  
24 receptacle designed to receive lawful money of the United  
25 States in connection with the sale, use or enjoyment of



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1 property or service by means of any slug or by any false,  
2 counterfeited, mutilated, sweated or foreign coin or by any  
3 means, method, trick or device.

4 B. Whoever commits cheating a machine or device  
5 when the value of the property or service is two hundred fifty  
6 dollars (\$250) or less is guilty of a petty misdemeanor.

7 C. Whoever commits cheating a machine or device  
8 when the value of the property or service is over two hundred  
9 fifty dollars (\$250) but not more than one thousand dollars  
10 (\$1,000) is guilty of a misdemeanor.

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

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

19 F. Whoever commits cheating a machine or device  
20 when the value of the property or service is over twenty  
21 thousand dollars (\$20,000) is guilty of a second degree  
22 felony. "

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

25 "30-16-16. FALSELY OBTAINING SERVICES OR ACCOMMODATIONS--

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1 PROBABLE CAUSE-- IMMUNITY-- PENALTY. --

2 A. Falsely obtaining services or accommodations  
3 consists of ~~[any]~~ a person obtaining service, food,  
4 entertainment or accommodations without paying with the intent  
5 to cheat or defraud the owner or person supplying ~~[such]~~ the  
6 service, food, entertainment or accommodations.

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

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

19 (1) less than ~~[one hundred dollars (\$100)]~~ two  
20 hundred fifty dollars (\$250) is guilty of a petty misdemeanor;

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

25 (3) more than ~~[two hundred fifty dollars~~

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

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

7 (5) more than twenty thousand dollars  
8 (\$20,000) is guilty of a second degree felony. "

9 Section 13. Section 30-16-18 NMSA 1978 (being Laws 1963,  
10 Chapter 303, Section 16-18, as amended) is amended to read:

11 "30-16-18. IMPROPER SALE, DISPOSAL, REMOVAL OR CONCEALING  
12 OF ENCUMBERED PROPERTY. --

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

22 [~~Any~~] B. A broker, dealer or [~~any~~] an agent, buyer  
23 or seller who receives any remuneration whatsoever for transfer  
24 of equity or arranges the assumption of any loan on a mobile  
25 home or recreational vehicle [~~which~~] that has a lien filed upon

. 151969. 5

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

11 C. Whoever commits improper sale, disposal, removal  
12 or concealing of encumbered property [~~where~~] when the value of  
13 [such] the property is [~~one hundred dollars (\$100)~~] two hundred  
14 fifty dollars (\$250) or less is guilty of a petty misdemeanor.

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

21 E. Whoever commits improper sale, disposal, removal  
22 or concealing of encumbered property [~~where~~] when the value of  
23 [such] the property is over [~~two hundred fifty dollars (\$250)~~]  
24 one thousand dollars (\$1,000) but not more than [~~twenty-five~~  
25 two thousand five hundred dollars (\$2,500) is guilty of a

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1 fourth degree felony.

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

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

11 Section 14. Section 30-16-20 NMSA 1978 (being Laws 1965,  
12 Chapter 5, Section 2, as amended) is amended to read:

13 "30-16-20. [~~CRIME OF~~] SHOPLIFTING [~~CREATED~~].--

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

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

19 (2) willfully concealing [~~any~~] merchandise  
20 with the intention of converting it without paying for it;

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

25 (4) willfully transferring [~~any~~] merchandise

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

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

6 (1) is [~~one hundred dollars (\$100)~~] two  
7 hundred fifty dollars (\$250) or less is guilty of a petty  
8 misdemeanor;

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

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

17 (4) is more than two thousand five hundred  
18 dollars (\$2,500) but not more than twenty thousand dollars  
19 (\$20,000) is guilty of a third degree felony; or

20 (5) is more than twenty thousand dollars  
21 (\$20,000) is guilty of a second degree felony.

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

25 Section 15. Section 30-16-33 NMSA 1978 (being Laws 1971,

. 151969. 5

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1 Chapter 239, Section 9) is amended to read:

2 "30-16-33. FRAUDULENT USE OF CREDIT CARDS. --

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

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

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

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

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

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

24 B. Whoever commits fraudulent use of a credit card  
25 when the value of the property or service is two hundred fifty

. 151969. 5

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1 dollars (\$250) or less in any consecutive six-month period is  
2 guilty of a petty misdemeanor.

3 C. Whoever commits fraudulent use of a credit card  
4 when the value of the property or service is over two hundred  
5 fifty dollars (\$250) but not more than one thousand dollars  
6 (\$1,000) in any consecutive six-month period is guilty of a  
7 misdemeanor.

8 D. Whoever commits fraudulent use of a credit card  
9 when the value of the property or service is over one thousand  
10 dollars (\$1,000) but not more than two thousand five hundred  
11 dollars (\$2,500) in any consecutive six-month period is guilty  
12 of a fourth degree felony.

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

18 F. Whoever commits fraudulent use of a credit card  
19 when the value of the property or service is over twenty  
20 thousand dollars (\$20,000) in any consecutive six-month period  
21 is guilty of a second degree felony."

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

24 "30-16-34. FRAUDULENT ACTS BY MERCHANTS OR THEIR  
25 EMPLOYEES. --

. 151969. 5



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1           A. ~~[Any]~~ A merchant or the employee of ~~[any]~~ a  
2 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud  
3 if, with intent to defraud, he furnishes or allows to be  
4 furnished anything of value upon presentation of a credit card:

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

8                           (2) fraudulently made or embossed; ~~[or]~~

9                           (3) fraudulently signed; ~~[or a credit card~~  
10 ~~which]~~

11                           (4) that he knows is invalid, expired or  
12 revoked ~~[or a credit card presented]; or~~

13                           (5) by a person whom he knows is not the  
14 cardholder named on the credit card or an authorized agent or  
15 representative of the cardholder named on the credit card.

16           B. ~~[If]~~ When the value of anything furnished by a  
17 merchant, or by an employee of a merchant, in violation of this  
18 section ~~[exceeds three hundred dollars (\$300), in any~~  
19 ~~consecutive six months period, then the offense is a third~~  
20 ~~degree felony]:~~

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

24                           (2) is more than two hundred fifty dollars  
25 (\$250) but not more than one thousand dollars (\$1,000) in any

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1 consecutive six-month period, the offense is a misdemeanor;

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

6 (4) is more than two thousand five hundred  
7 dollars (\$2,500) but not more than twenty thousand dollars  
8 (\$20,000) in any consecutive six-month period, the offense is a  
9 third degree felony; or

10 (5) is more than twenty thousand dollars  
11 (\$20,000) in any consecutive six-month period, the offense is a  
12 second degree felony.

13 ~~[B.—Any]~~ C. A merchant or the employee of ~~[any]~~ a  
14 merchant ~~[is guilty of a fourth degree felony]~~ commits fraud  
15 if, with intent to defraud, he fails to furnish anything of  
16 value ~~[which]~~ that he represents in writing to the issuer or to  
17 a participating party that he has furnished on a credit card or  
18 cards of the issuer. ~~[If]~~ When the difference between the  
19 value of anything actually furnished to ~~[any]~~ a person ~~[or~~  
20 ~~persons]~~ and the value represented by the merchant to the  
21 issuer or participating party ~~[exceeds three hundred dollars~~  
22 ~~(\$300) in any consecutive six months period, then the offense~~  
23 ~~is a third degree felony]:~~

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

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1 petty misdemeanor;

2 (2) is more than two hundred fifty dollars  
3 (\$250) but not more than one thousand dollars (\$1,000) in any  
4 consecutive six-month period, the offense is a misdemeanor;

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

9 (4) is more than two thousand five hundred  
10 dollars (\$2,500) but not more than twenty thousand dollars  
11 (\$20,000) in any consecutive six-month period, the offense is a  
12 third degree felony; or

13 (5) is more than twenty thousand dollars  
14 (\$20,000) in any consecutive six-month period, the offense is a  
15 second degree felony."

16 Section 17. Section 30-16-36 NMSA 1978 (being Laws 1971,  
17 Chapter 239, Section 12) is amended to read:

18 "30-16-36. RECEIPT OF PROPERTY OBTAINED IN VIOLATION OF  
19 ACT. -- ~~[Any]~~ A person who receives ~~[the]~~ money, goods, services  
20 or anything else of value obtained in violation of Section  
21 ~~[40A-16-33 NMSA 1953]~~ 30-16-33 NMSA 1978, and who knows or has  
22 reason to believe that it was so obtained, violates this  
23 section. The degree of the offense is determined as follows:

24 A. ~~[if]~~ when the value of all things of value  
25 obtained from ~~[any]~~ a person ~~[or persons]~~ in violation of this

. 151969. 5

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1 section is [~~one hundred dollars (\$100)~~] two hundred fifty  
2 dollars (\$250) or less in any consecutive [~~six months~~]  
3 six-month period, then the offense is a petty misdemeanor;

4 B. [~~if~~] when the value of all things of value  
5 obtained from [~~any~~] a person [~~or persons~~] in violation of this  
6 section is more than [~~one hundred dollars (\$100)~~] two hundred  
7 fifty dollars (\$250) but [~~less than three hundred dollars~~  
8 ~~(\$300) in any consecutive six months period, then the offense~~  
9 ~~is a fourth degree felony;~~

10 C. [~~if the value of all things of value obtained~~  
11 ~~from any person or persons in violation of this section is~~  
12 ~~three hundred dollars (\$300) or more in any consecutive six~~  
13 ~~months period, then the offense is a third degree felony]~~ not  
14 more than one thousand dollars (\$1,000) in any consecutive six-  
15 month period, then the offense is a misdemeanor;

16 C. when the value of all things of value obtained  
17 from a person in violation of this section is more than one  
18 thousand dollars (\$1,000) but not more than two thousand five  
19 hundred thousand dollars (\$2,500) in any consecutive six-month  
20 period, then the offense is a fourth degree felony;

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

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

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

7                   "30-16-39. FRAUDULENT ACTS TO OBTAIN OR RETAIN POSSESSION  
8 OF RENTED OR LEASED VEHICLE OR OTHER PERSONAL PROPERTY--

9 PENALTY. -- ~~[Any]~~ A person who rents or leases a vehicle or other  
10 personal property and obtains or retains possession of it by  
11 means of any false or fraudulent representation, fraudulent  
12 concealment, false pretense ~~[or personation]~~, trick, artifice  
13 or device, including ~~[but not limited to]~~ a false  
14 representation as to his name, residence, employment or  
15 operator's license is guilty of a:

16                   A. ~~[of a fourth degree felony if the property is a~~  
17 ~~vehicle or has a value in excess]~~ petty misdemeanor if the  
18 vehicle or property has a value of [one hundred dollars (\$100)]  
19 two hundred fifty dollars (\$250) or less; [or]

20                   B. ~~[of a petty misdemeanor if the property is not a~~  
21 ~~vehicle and]~~ misdemeanor if the vehicle or property has a value  
22 of over [one hundred dollars (\$100) or less] two hundred fifty  
23 dollars (\$250) but not more than one thousand dollars (\$1,000);

24                   C. fourth degree felony if the property or vehicle  
25 has a value of over one thousand dollars (\$1,000) but not more

. 151969. 5

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1 than two thousand five hundred dollars (\$2,500);

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

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

7 Section 19. Section 30-16-40 NMSA 1978 (being Laws 1973,  
8 Chapter 154, Section 1, as amended) is amended to read:

9 "30-16-40. FRAUDULENT REFUSAL TO RETURN A LEASED VEHICLE  
10 OR OTHER PERSONAL PROPERTY--PENALTY--PRESUMPTION.--

11 A. ~~[Any]~~ A person who, after leasing a vehicle or  
12 other personal property under a written agreement ~~[which]~~ that  
13 provides for the return of the vehicle or personal property to  
14 a particular place at a particular time and who, with intent to  
15 defraud the lessor of the vehicle or personal property, fails  
16 to return the vehicle or personal property to the place within  
17 the time specified, is guilty of a:

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

21 ~~(2) of a fourth degree felony if the property~~  
22 ~~is not a vehicle and has a value of more than one hundred~~  
23 ~~dollars (\$100) but less than two thousand five hundred dollars~~  
24 ~~(\$2,500);~~

25 ~~(3) of a fourth degree felony if the vehicle~~

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1 ~~has a value of less than two thousand five hundred dollars~~  
2 ~~(\$2,500); and~~

3 ~~(4) of a third degree felony if the property~~  
4 ~~or vehicle has a value of two thousand five hundred dollars~~  
5 ~~(\$2,500) or more.]~~

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

9 (2) misdemeanor if the property or vehicle has  
10 a value of over two hundred fifty dollars (\$250) but not more  
11 than one thousand dollars (\$1,000);

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

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

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

21 B. Failure of the lessee to return the vehicle or  
22 personal property to the place specified within seventy-two  
23 hours after mailing to him by certified mail at his address  
24 shown on the leasing agreement a written demand to return the  
25 vehicle or personal property shall raise a rebuttable

. 151969. 5

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1 presumption that the failure to return the vehicle or personal  
2 property was with intent to defraud."

3 Section 20. Section 30-17-5 NMSA 1978 (being Laws 1970,  
4 Chapter 39, Section 1) is amended to read:

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

6 A. Arson consists of a person maliciously or  
7 willfully starting a fire or causing an explosion with the  
8 purpose of destroying or damaging [~~any~~]:

9 (1) a building, occupied structure or property  
10 of another person; [~~or~~]

11 (2) a bridge, utility line, fence or sign [~~or~~  
12 ~~with the purpose of destroying or damaging~~]; or

13 (3) any property, whether the person's own  
14 property or [another's] the property of another person, to  
15 collect insurance for [~~such~~] the loss.

16 [~~(1)~~] B. Whoever commits arson when the [~~value of~~  
17 ~~the thing destroyed or damaged~~] damage is [~~one hundred dollars~~  
18 ~~(\$100)~~] two hundred fifty dollars (\$250) or less is guilty of a  
19 petty misdemeanor.

20 [~~(2)~~] C. Whoever commits arson when the [~~value of~~  
21 ~~the thing destroyed or damaged~~] damage is over [~~one hundred~~  
22 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) but not more  
23 than one thousand dollars (\$1,000) is guilty of a [~~fourth~~  
24 ~~degree felony~~] misdemeanor.

25 [~~(3)~~] D. Whoever commits arson when the [~~value of~~



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1 ~~the thing destroyed or damaged exceeds one thousand dollars~~  
2 ~~(\$1,000) is guilty of a third degree felony]~~ damage is over one  
3 thousand dollars (\$1,000) but not more than two thousand five  
4 hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

12 ~~[B-]~~ G. Negligent arson consists of a person  
13 recklessly starting a fire or causing an explosion, whether on  
14 the person's property or ~~another's~~ the property of another  
15 person, and thereby directly:

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

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

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

22 ~~[C-]~~ I. As used in this section, "occupied  
23 structure" includes a boat, trailer, car, airplane, structure  
24 or place adapted for the transportation or storage of property,  
25 ~~or~~ for overnight accommodations of persons or for carrying on

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1 business therein, whether or not a person is actually present. "

2 Section 21. Section 30-33-13 NMSA 1978 (being Laws 1963,  
3 Chapter 49, Section 2, as amended) is amended to read:

4 "30-33-13. CRIME TO PROCURE OR TO ATTEMPT TO PROCURE  
5 TELECOMMUNICATIONS SERVICE WITHOUT PAYING CHARGE-- CRIME TO  
6 MAKE, POSSESS, SELL, GIVE OR TRANSFER CERTAIN DEVICES FOR  
7 CERTAIN PURPOSES-- PENALTY. --

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

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

16 (2) charging [~~such~~] the service to a  
17 nonexistent, false, fictitious or counterfeit telephone number  
18 or credit card number or to a suspended, terminated, expired,  
19 canceled or revoked telephone number or credit card number;

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

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

. 151969. 5

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

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

12 C. Whoever violates this ~~[subsection]~~ section when  
13 the charges for the ~~[telecommunication]~~ telecommunications  
14 service obtained or attempted to be obtained are ~~[one hundred~~  
15 ~~dollars (\$100)]~~ two hundred fifty dollars (\$250) or less is  
16 guilty of a petty misdemeanor.

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

23 E. Whoever violates this ~~[subsection]~~ section when  
24 the charges for the ~~[telecommunication]~~ telecommunications  
25 service obtained or attempted to be obtained are more than ~~[two~~

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

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

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

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

24 (1) to make or possess any instrument,  
25 apparatus, equipment or device designed, adapted or [~~which~~]

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1 that can be used either:

2 (a) to obtain [~~telecommunication~~]  
3 telecommunications service in violation of [~~Subsection A of~~]  
4 this section; or

5 (b) to conceal or to assist another to  
6 conceal from any supplier of [~~telecommunication~~]  
7 telecommunications service or from any lawful authority the  
8 existence or place of origin or of destination of any  
9 [~~telecommunication~~] telecommunications service; or

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

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

23 Section 22. Section 30-36-5 NMSA 1978 (being Laws 1965,  
24 Chapter 114, Section 1) is amended to read:

25 "30-36-5. PENALTY. -- [~~Any person violating Section 40-49-4~~

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1 ~~New Mexico Statutes Annotated, 1953 Compilation~~ A person who  
2 violates Section 30-36-4 NMSA 1978 shall be punished as  
3 follows:

4           A. when the amount of the check, draft or order or  
5 the total amount of the checks, drafts or orders [~~are for more~~  
6 ~~than one dollar (\$1.00) but less than twenty-five dollars~~  
7 ~~(\$25.00), imprisonment in the county jail for a term of not~~  
8 ~~more than thirty days or a fine of not more than one hundred~~  
9 ~~dollars (\$100), or both such imprisonment and fine]~~ is two  
10 hundred fifty dollars (\$250) or less, the person is guilty of a  
11 petty misdemeanor;

12           B. when the amount of the check, draft or order or  
13 the total amount of the checks, drafts or orders [~~are for~~  
14 ~~twenty-five dollars (\$25.00) or more, imprisonment in the~~  
15 ~~penitentiary for a term of not less than one year nor more than~~  
16 ~~three years or the payment of a fine of not more than one~~  
17 ~~thousand dollars (\$1,000) or both such imprisonment and fine]~~  
18 is over two hundred fifty dollars (\$250) but not more than one  
19 thousand dollars (\$1,000), the person is guilty of a  
20 misdemeanor;

21           C. when the amount of the check, draft or order or  
22 the total amount of the checks, drafts or orders is over one  
23 thousand dollars (\$1,000) but not more than two thousand five  
24 hundred dollars (\$2,500), the person is guilty of a fourth  
25 degree felony;

. 151969. 5

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

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

10               Section 23. Section 30-40-1 NMSA 1978 (being Laws 1979,  
11 Chapter 170, Section 1, as amended) is amended to read:

12               "30-40-1. FAILING TO DISCLOSE FACTS OR CHANGE OF  
13 CIRCUMSTANCES TO OBTAIN PUBLIC ASSISTANCE. --

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

22               B. Whoever commits failing to disclose facts or  
23 change of circumstances to obtain public assistance when the  
24 value of the assistance wrongfully received is [~~one hundred~~  
25 ~~dollars (\$100)~~] two hundred fifty dollars (\$250) or less in any

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1 twelve consecutive months is guilty of a petty misdemeanor.

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

9 D. Whoever commits failing to disclose facts or  
10 change of circumstances to obtain public assistance when the  
11 value of the assistance wrongfully received is more than [~~two~~  
12 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000) but  
13 not more than two thousand five hundred dollars (\$2,500) in any  
14 twelve consecutive months is guilty of a fourth degree felony.

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

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

25 Section 24. Section 30-40-2 NMSA 1978 (being Laws 1979,

. 151969. 5



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1 Chapter 170, Section 2, as amended) is amended to read:

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

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

10 B. Whoever commits unlawful use of food stamp  
11 identification card or medical identification card when the  
12 value of the food stamps or medical services wrongfully  
13 received is [~~one hundred dollars (\$100)~~] two hundred fifty  
14 dollars (\$250) or less is guilty of a petty misdemeanor.

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

22 D. Whoever commits unlawful use of food stamp  
23 identification card or medical identification card when the  
24 value of the food stamps or medical services wrongfully  
25 received is more than [~~two hundred fifty dollars (\$250)~~] one

. 151969. 5

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1 thousand dollars (\$1,000) but not more than two thousand five  
2 hundred dollars (\$2,500) is guilty of a fourth degree felony.

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

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

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

18 Section 25. Section 30-40-3 NMSA 1978 (being Laws 1979,  
19 Chapter 170, Section 3, as amended) is amended to read:

20 "30-40-3. MISAPPROPRIATING PUBLIC ASSISTANCE. --

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

. 151969. 5

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1 women, infants and children administered by the [~~health and~~  
2 ~~environment~~] human services department, food stamp or medical  
3 identification cards, public assistance benefits or funds  
4 received in exchange for food stamp coupons.

5 B. Whoever commits misappropriating public  
6 assistance when the value of the thing misappropriated is [~~one~~  
7 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) or  
8 less is guilty of a petty misdemeanor.

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

14 D. Whoever commits misappropriating public  
15 assistance when the value of the thing misappropriated is more  
16 than [~~two hundred fifty dollars (\$250)~~] one thousand dollars  
17 (\$1,000) but not more than two thousand five hundred dollars  
18 (\$2,500) is guilty of a fourth degree felony.

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

24 F. Whoever commits misappropriating public  
25 assistance when the value of the thing misappropriated exceeds

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1 twenty thousand dollars (\$20,000) is guilty of a second degree  
2 felony.

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

7 Section 26. Section 30-40-6 NMSA 1978 (being Laws 1979,  
8 Chapter 170, Section 6, as amended) is amended to read:

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

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

18 B. A medicaid provider who commits failure to  
19 reimburse the human services department upon receipt of third  
20 party payment when the value of the payment made by the  
21 department is [~~one hundred dollars (\$100)~~] two hundred fifty  
22 dollars (\$250) or less is guilty of a petty misdemeanor.

23 C. A medicaid provider who commits failure to  
24 reimburse the human services department upon receipt of third  
25 party payment when the value of the payment made by the

. 151969. 5

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1 department is more than [~~one hundred dollars (\$100)~~] two  
2 hundred fifty dollars (\$250) but not more than [~~two hundred~~  
3 ~~fifty dollars (\$250)~~] one thousand dollars (\$1,000) is guilty  
4 of a misdemeanor.

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

11 E. A medicaid provider who commits failure to  
12 reimburse the human services department upon receipt of third  
13 party payment when the value of the payment made by the  
14 department is more than two thousand five hundred dollars  
15 (\$2,500) but not more than twenty thousand dollars (\$20,000) is  
16 guilty of a third degree felony.

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

22 Section 27. Section 30-45-3 NMSA 1978 (being Laws 1989,  
23 Chapter 215, Section 3) is amended to read:

24 "30-45-3. COMPUTER ACCESS WITH INTENT TO DEFRAUD OR  
25 EMBEZZLE. -- [~~Any~~] A person who knowingly and willfully accesses

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1 or causes to be accessed [~~any~~] a computer, computer system,  
2 computer network or any part thereof with the intent to obtain,  
3 by means of embezzlement or false or fraudulent pretenses,  
4 representations or promises, money, property or anything of  
5 value, [~~where~~] when the:

6 A. [~~the~~] money, property or other thing has a value  
7 of [~~one hundred dollars (\$100)~~] two hundred fifty dollars  
8 (\$250) or less, is guilty of a petty misdemeanor;

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

15 C. [~~the~~] money, property or other thing has a value  
16 of more than [~~two hundred fifty dollars (\$250)~~] one thousand  
17 dollars (\$1,000) but not more than two thousand five hundred  
18 dollars (\$2,500), is guilty of a fourth degree felony [~~and~~  
19 ~~shall be sentenced pursuant to the provisions of Section~~  
20 ~~31-18-15 NMSA 1978~~];

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

. 151969. 5

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

5 Section 28. Section 30-45-4 NMSA 1978 (being Laws 1989,  
6 Chapter 215, Section 4) is amended to read:

7 "30-45-4. COMPUTER ABUSE. -- [~~Any~~] A person who knowingly,  
8 willfully and without authorization, or having obtained  
9 authorization, uses the opportunity the authorization provides  
10 for purposes to which the authorization does not extend:

11 A. directly or indirectly alters, changes, damages,  
12 disrupts or destroys any computer, computer network, computer  
13 property, computer service or computer system, [~~where~~] when  
14 the:

15 (1) [~~the~~] damage to the computer property or  
16 computer service has a value of [~~one hundred dollars (\$100)~~]  
17 two hundred fifty dollars (\$250) or less, is guilty of a petty  
18 misdemeanor;

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

25 (3) [~~the~~] damage to the computer property or

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

6 (4) [~~the~~] damage to the computer property or  
7 computer service has a value of more than two thousand five  
8 hundred dollars (\$2,500) but not more than twenty thousand  
9 dollars (\$20,000), is guilty of a third degree felony [~~and~~  
10 ~~shall be sentenced pursuant to the provisions of Section~~  
11 ~~31-18-15 NMSA 1978~~]; or

12 (5) [~~the~~] damage to the computer property or  
13 computer service has a value of more than twenty thousand  
14 dollars (\$20,000), is guilty of a second degree felony [~~and~~  
15 ~~shall be sentenced pursuant to the provisions of Section~~  
16 ~~31-18-15 NMSA 1978~~]; or

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

25 Section 29. Section 30-45-5 NMSA 1978 (being Laws 1989,

. 151969. 5



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1 Chapter 215, Section 5) is amended to read:

2 "30-45-5. UNAUTHORIZED COMPUTER USE. -- ~~[Any]~~ A person who  
3 knowingly, willfully and without authorization, or having  
4 obtained authorization, uses the opportunity ~~[such]~~ the  
5 authorization provides for purposes to which the authorization  
6 does not extend, directly or indirectly accesses, uses, takes,  
7 transfers, conceals, obtains, copies or retains possession of  
8 any computer, computer network, computer property, computer  
9 service, computer system or any part thereof, ~~[where]~~ when the:

10 A. ~~[the]~~ damage to the computer property or  
11 computer service has a value of ~~[one hundred dollars (\$100)]~~  
12 two hundred fifty dollars (\$250) or less, is guilty of a petty  
13 misdemeanor;

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

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

. 151969. 5

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1           D. [~~the~~] damage to the computer property or  
2 computer service has a value of more than two thousand five  
3 hundred dollars (\$2,500) but not more than twenty thousand  
4 dollars (\$20,000), is guilty of a third degree felony [~~and~~  
5 ~~shall be sentenced pursuant to the provisions of Section~~  
6 ~~31-18-15 NMSA 1978~~]; or

7           E. [~~the~~] damage to the computer property or  
8 computer service has a value of more than twenty thousand  
9 dollars (\$20,000), is guilty of a second degree felony [~~and~~  
10 ~~shall be sentenced pursuant to the provisions of Section~~  
11 ~~31-18-15 NMSA 1978~~]. "

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

14           "30-47-6. EXPLOITATION--CRIMINAL PENALTIES. --

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

20           B. Whoever commits exploitation of a resident's  
21 property when the value of the property exploited is [~~one~~  
22 ~~hundred dollars (\$100)~~] two hundred fifty dollars (\$250) or  
23 less is guilty of a petty misdemeanor [~~and upon conviction~~  
24 ~~shall be sentenced pursuant to the provisions of Subsection B~~  
25 ~~of Section 31-19-1 NMSA 1978~~].

. 151969. 5

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

8           D. Whoever commits exploitation of a resident's  
9 property when the value of the property exploited is over [~~two~~  
10 ~~hundred fifty dollars (\$250)~~] one thousand dollars (\$1,000) but  
11 not more than two thousand five hundred dollars (\$2,500) is  
12 guilty of a fourth degree felony [~~and upon conviction shall be~~  
13 ~~sentenced pursuant to the provisions of Section 31-18-15 NMSA~~  
14 ~~1978~~].

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

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

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1 Section 31. Section 30-50-4 NMSA 1978 (being Laws 1995,  
2 Chapter 37, Section 4) is amended to read:

3 "30-50-4. FRAUDULENT TELEMARKETING--PENALTIES. -- [Any] A  
4 person who knowingly and willfully engages in telemarketing to  
5 or from a telephone located in New Mexico with the intent to  
6 embezzle or to obtain money, property or any thing of value by  
7 fraudulent pretenses, representations or promises in the course  
8 of a telephone communication, when the:

9 A. [~~the~~] money, property or thing has a value of  
10 [~~less than two hundred fifty dollars (\$250), is guilty of a~~  
11 ~~misdemeanor and shall be sentenced pursuant to the provisions~~  
12 ~~of Section 31-19-1 NMSA 1978]~~ two hundred fifty dollars (\$250)  
13 or less, is guilty of a petty misdemeanor;

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

21 C. money, property or thing has a value of more  
22 than one thousand dollars (\$1,000) but not more than two  
23 thousand five hundred dollars (\$2,500), is guilty of a fourth  
24 degree felony;

25 [~~C.—the~~] D. money, property or thing has a value

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

6 [D. ~~the~~] E. money, property or thing has a value  
7 of more than twenty thousand dollars (\$20,000) [~~or more~~], is  
8 guilty of a second degree felony [~~and shall be sentenced~~  
9 ~~pursuant to the provisions of Section 31-18-15 NMSA 1978~~]. "

10 Section 32. Section 59A-16-23 NMSA 1978 (being Laws 1984,  
11 Chapter 127, Section 290) is amended to read:

12 "59A-16-23. FALSE APPLICATIONS, CLAIMS, PROOFS OF LOSS. --

13 A. [~~No~~] An agent, broker, solicitor, examining  
14 physician, applicant or other person shall not knowingly or  
15 [~~wilfully~~] willfully:

16 (1) make [~~any~~] a false or fraudulent statement  
17 or representation as to [~~any~~] a material fact in or with  
18 reference to [~~any~~] an application for insurance or other  
19 coverage; [~~or~~]

20 (2) for the purpose of obtaining [~~any~~] money  
21 or benefit, present or cause to be presented a false or  
22 fraudulent claim or [~~any~~] proof in support of such a claim for  
23 payment of loss under a policy; [~~or~~]

24 (3) prepare, make or subscribe a false or  
25 fraudulent account, certificate, affidavit or proof of loss or

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1 other document with intent that the same may be presented or  
2 used in support of such a claim; or

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

7 B. ~~[Any such]~~ A false statement or representation  
8 made under oath shall constitute and be punishable as perjury  
9 ~~[and any violation]~~. A violation of the provisions of this  
10 section [shall constitute and be punishable as a felony] when  
11 the purported loss or potential loss to the victim insurer is:

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

14 (2) over two hundred fifty dollars (\$250) but  
15 not more than one thousand dollars (\$1,000) is a misdemeanor;

16 (3) over one thousand dollars (\$1,000) but not  
17 more than two thousand five hundred dollars (\$2,500) is a  
18 fourth degree felony;

19 (4) over two thousand five hundred dollars  
20 (\$2,500) but not over twenty thousand dollars (\$20,000) is a  
21 third degree felony; or

22 (5) over twenty thousand dollars (\$20,000) is  
23 a second degree felony.

24 C. Whoever knowingly conspires with another person  
25 or engages another person by soliciting, commanding,

1 requesting, inducing or employing that person to commit false  
2 application or fraudulent claim or to submit a fraudulent proof  
3 of loss, if found guilty, shall be sentenced in accordance with  
4 the provisions of Subsection B of this section."

5 Section 33. EFFECTIVE DATE. --The effective date of the  
6 provisions of this act is July 1, 2005.

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