

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1083 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law.
- 4 Page 1, between the enacting clause and line 1, begin a new
- 5 paragraph and insert:
- 6 "SECTION 1. IC 34-30-3-2 IS AMENDED TO READ AS
- 7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) The definitions
- 8 set forth in IC 22-11-20 apply to this section.
- 9 (b) Except as provided in subsection (c), the victim or an agent of
- 10 the victim of a theft (~~IC 35-43-4-2(a)~~) (**IC 35-43-4-2**) or criminal
- 11 conversion (IC 35-43-4-3) of:
- 12 (1) anhydrous ammonia (NH₃);
- 13 (2) an ammonia solution; or
- 14 (3) a container used to store or transport anhydrous ammonia or
- 15 an ammonia solution;
- 16 is immune from civil liability for injury or damage resulting from the
- 17 possession or use of the anhydrous ammonia, ammonia solution, or
- 18 container by another person to commit a violation of IC 35-48-4.
- 19 (c) A victim or an agent described in subsection (b) is not immune
- 20 from civil liability under subsection (b) if:
- 21 (1) the victim or agent committed a crime involving the
- 22 anhydrous ammonia, ammonia solution, or container that is the
- 23 subject of the theft or criminal conversion; or
- 24 (2) the victim's or agent's willful or intentional commission of a
- 25 violation of an applicable law, rule, or regulation governing the:
- 26 (A) design;
- 27 (B) construction;
- 28 (C) location;
- 29 (D) installation; or
- 30 (E) operation;

1 of equipment for storage, handling, use, or transportation of
 2 anhydrous ammonia or ammonia solution proximately caused the
 3 theft or criminal conversion.

4 SECTION 2. IC 34-30-20-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person is immune
 6 from civil liability based on an act or omission related to the use of a
 7 firearm or ammunition for a firearm by another person if the other
 8 person directly or indirectly obtained the firearm or ammunition for a
 9 firearm through the commission of the following:

- 10 (1) Burglary (IC 35-43-2-1).
- 11 (2) Robbery (IC 35-42-5-1).
- 12 (3) Theft (IC 35-43-4-2).
- 13 (4) Receiving stolen property (**before the offense was abolished**
 14 **on July 1, 2011**) (IC 35-43-4-2).
- 15 (5) Criminal conversion (IC 35-43-4-3).

16 SECTION 3. IC 35-32-2-2 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. (a) A person may be
 18 tried for theft or conversion in any county in which ~~he~~ **the person**
 19 exerted unauthorized control over the property.

20 (b) A person may be tried for receiving stolen property (**for an act**
 21 **committed before the offense was abolished on July 1, 2011**) in any
 22 county in which ~~he~~ **the person** receives, retains, or disposes of the
 23 property.

24 SECTION 4. IC 35-33-1-1, AS AMENDED BY P.L.50-2005,
 25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2011]: Sec. 1. (a) A law enforcement officer may arrest a
 27 person when the officer has:

- 28 (1) a warrant commanding that the person be arrested;
- 29 (2) probable cause to believe the person has committed or
 30 attempted to commit, or is committing or attempting to commit,
 31 **theft or** a felony;
- 32 (3) probable cause to believe the person has violated the
 33 provisions of IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-2(1),
 34 IC 9-26-1-2(2), IC 9-26-1-3, IC 9-26-1-4, or IC 9-30-5;
- 35 (4) probable cause to believe the person is committing or
 36 attempting to commit a misdemeanor in the officer's presence;
- 37 (5) probable cause to believe the person has committed a:
 38 (A) battery resulting in bodily injury under IC 35-42-2-1; or
 39 (B) domestic battery under IC 35-42-2-1.3.

40 The officer may use an affidavit executed by an individual alleged
 41 to have direct knowledge of the incident alleging the elements of
 42 the offense of battery to establish probable cause;

- 43 (6) probable cause to believe that the person violated
 44 IC 35-46-1-15.1 (invasion of privacy);
- 45 (7) probable cause to believe that the person violated
 46 IC 35-47-2-1 (carrying a handgun without a license) or

- 1 IC 35-47-2-22 (counterfeit handgun license);
 2 (8) probable cause to believe that the person is violating or has
 3 violated an order issued under IC 35-50-7;
 4 (9) probable cause to believe that the person is violating or has
 5 violated IC 35-47-6-1.1 (undisclosed transport of a dangerous
 6 device); or
 7 (10) probable cause to believe that the person is:
 8 (A) violating or has violated IC 35-45-2-5 (interference with
 9 the reporting of a crime); and
 10 (B) interfering with or preventing the reporting of a crime
 11 involving domestic or family violence (as defined in
 12 IC 34-6-2-34.5).

- 13 (b) A person who:
 14 (1) is employed full time as a federal enforcement officer;
 15 (2) is empowered to effect an arrest with or without warrant for a
 16 violation of the United States Code; and
 17 (3) is authorized to carry firearms in the performance of the
 18 person's duties;
 19 may act as an officer for the arrest of offenders against the laws of this
 20 state where the person reasonably believes that a felony has been or is
 21 about to be committed or attempted in the person's presence.

22 SECTION 5. IC 35-43-2-1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. A person who breaks
 24 and enters the building or structure of another person, with intent to
 25 commit **theft or** a felony in it, commits burglary, a Class C felony.
 26 However, the offense is:

- 27 (1) a Class B felony if:
 28 (A) it is committed while armed with a deadly weapon; or
 29 (B) the building or structure is a:
 30 (i) dwelling; or
 31 (ii) structure used for religious worship; and
 32 (2) a Class A felony if it results in:
 33 (A) bodily injury; or
 34 (B) serious bodily injury;
 35 to any person other than a defendant.

36 SECTION 6. IC 35-43-4-2, AS AMENDED BY P.L.158-2009,
 37 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2011]: Sec. 2. ~~(a)~~ A person who knowingly or intentionally
 39 exerts unauthorized control over property of another person, with intent
 40 to deprive the other person of any part of its value or use, commits
 41 theft, a ~~Class D felony~~. **Class A misdemeanor**. However, the offense
 42 is a **Class D felony if the fair market value of the property is at**
 43 **least seven hundred fifty dollars (\$750) or if the person has a prior**
 44 **unrelated conviction for conversion or theft, and a Class C felony**
 45 **if:**

- 46 (1) the fair market value of the property is at least ~~one hundred~~

1 **fifty thousand dollars (~~\$100,000~~); (\$50,000);** or
 2 (2) the property that is the subject of the theft is a valuable metal
 3 (as defined in IC 25-37.5-1-1) and:
 4 (A) relates to transportation safety;
 5 (B) relates to public safety; or
 6 (C) is taken from a:
 7 (i) hospital or other health care facility;
 8 (ii) telecommunications provider;
 9 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or
 10 (iv) key facility;
 11 and the absence of the property creates a substantial risk of bodily
 12 injury to a person.

13 **(b) A person who knowingly or intentionally receives; retains; or**
 14 **disposes of the property of another person that has been the subject of**
 15 **theft commits receiving stolen property, a Class D felony. However, the**
 16 **offense is a Class E felony if:**

17 (1) the fair market value of the property is at least one hundred
 18 thousand dollars (~~\$100,000~~); or
 19 (2) the property that is the subject of the theft is a valuable metal
 20 (as defined in IC 25-37.5-1-1) and:

21 (A) relates to transportation safety;
 22 (B) relates to public safety; or
 23 (C) is taken from a:
 24 (i) hospital or other health care facility;
 25 (ii) telecommunications provider;
 26 (iii) public utility (as defined in IC 32-24-1-5.9(a)); or
 27 (iv) key facility;

28 and the absence of the property creates a substantial risk of bodily
 29 injury to a person.

30 SECTION 7. IC 35-43-4-8 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) A conviction for
 32 an offense under section 2 of this chapter or section 3 of this chapter
 33 that involves exerting unauthorized control over gasoline or motor
 34 vehicle fuel:

35 (1) by operation of a motor vehicle to leave the premises of an
 36 establishment at which gasoline or motor vehicle fuel is offered
 37 for sale after the gasoline or motor vehicle fuel has been
 38 dispensed into the fuel tank of the motor vehicle; and

39 (2) without payment or authorization of payment by a credit card,
 40 debit card, charge card, or similar method of payment;
 41 shall result in the suspension of the driving privileges of the person.

42 (b) The court imposing a sentence for a violation under subsection
 43 (a) shall issue an order to the bureau of motor vehicles:

44 (1) stating that the person has been convicted of an offense under
 45 section 2 of this chapter or section 3 of this chapter involving the
 46 unauthorized taking of gasoline or motor vehicle fuel; and

1 (2) ordering the suspension of the person's driving privileges
2 under IC 9-25-6-21.

3 The suspension of a person's driving privileges under this section is in
4 addition to other penalties prescribed by ~~IC 35-50-3-2 for a Class A~~
5 ~~misdemeanor or by IC 35-50-2-7 for a Class D felony.~~ **IC 35-50.**

6 SECTION 8. IC 35-43-5-2, AS AMENDED BY P.L.106-2006,
7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2011]: Sec. 2. (a) A person who knowingly or intentionally:

9 (1) makes or utters a written instrument in such a manner that it
10 purports to have been made:

11 (A) by another person;

12 (B) at another time;

13 (C) with different provisions; or

14 (D) by authority of one who did not give authority; or

15 (2) possesses more than one (1) written instrument knowing that
16 the written instruments were made in a manner that they purport
17 to have been made:

18 (A) by another person;

19 (B) at another time;

20 (C) with different provisions; or

21 (D) by authority of one who did not give authority;

22 commits counterfeiting, a Class D felony.

23 (b) A person who, with intent to defraud, makes, utters, or possesses
24 a written instrument in such a manner that it purports to have been
25 made:

26 (1) by another person;

27 (2) at another time;

28 (3) with different provisions; or

29 (4) by authority of one who did not give authority;

30 commits forgery, a ~~Class C~~ **Class D** felony.

31 (c) This subsection applies to a person who applies for a driver's
32 license (as defined in IC 9-13-2-48) **or a state identification card (as**
33 **issued under IC 9-24-16).** A person who:

34 (1) knowingly or intentionally uses a false or fictitious name or
35 gives a false or fictitious address in an application for a driver's
36 license **or a state identification card** or for a renewal or a
37 duplicate of a driver's license **or a state identification card;** or

38 (2) knowingly or intentionally makes a false statement or conceals
39 a material fact or otherwise commits fraud in an application for a
40 driver's license **or a state identification card;**

41 commits application fraud, a Class D felony.

42 (d) This subsection applies to a person who applies for a state
43 identification card (as issued under ~~IC 9-24-16~~): A person who:

44 (1) knowingly or intentionally uses false information in an
45 application for an identification card or for a renewal or duplicate
46 of an identification card; or

- 1 (2) knowingly or intentionally makes a false statement or
 2 otherwise commits fraud in an application for an identification
 3 card;
 4 commits application fraud; a Class D felony.
- 5 SECTION 9. IC 35-43-5-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) A person who:
 7 (1) being an officer, manager, or other person participating in the
 8 direction of a credit institution, knowingly or intentionally
 9 receives or permits the receipt of a deposit or other investment,
 10 knowing that the institution is insolvent;
 11 (2) knowingly or intentionally:
 12 (A) makes a false or misleading written statement; or
 13 (B) **misrepresents:**
 14 (i) **the identity of the person or another person;**
 15 (ii) **a person as being a physician licensed under**
 16 **IC 25-22.5; or**
 17 (iii) **the identity or quality of property;**
 18 with intent to obtain property, employment, or an educational
 19 opportunity;
 20 (3) misapplies entrusted property, property of a governmental
 21 entity, or property of a credit institution in a manner that the
 22 person knows is unlawful or that the person knows involves
 23 substantial risk of loss or detriment to either the owner of the
 24 property or to a person for whose benefit the property was
 25 entrusted;
 26 (4) knowingly or intentionally, in the regular course of business,
 27 either:
 28 (A) uses or possesses for use a false weight or measure or
 29 other device for falsely determining or recording the quality or
 30 quantity of any commodity; or
 31 (B) sells, offers, or displays for sale or delivers less than the
 32 represented quality or quantity of any commodity;
 33 (5) with intent to defraud another person furnishing electricity,
 34 gas, water, telecommunication, or any other utility service **or**
 35 **cable television service**, avoids a lawful charge for that service
 36 by scheme or device or by tampering with facilities or equipment
 37 of the person furnishing the service;
 38 ~~(6) with intent to defraud, misrepresents the identity of the person~~
 39 ~~or another person or the identity or quality of property;~~
 40 ~~(7) (6) with intent to defraud an owner of a coin machine, deposits~~
 41 ~~a slug in that machine;~~
 42 ~~(8) (7) with intent to enable the person or another person to~~
 43 ~~deposit a slug in a coin machine, makes, possesses, or disposes of~~
 44 ~~a slug; or~~
 45 ~~(9) (8) disseminates to the public an advertisement that the person~~
 46 knows is false, misleading, or deceptive, with intent to promote

1 the purchase or sale of property or the acceptance of employment;
 2 ~~(10) with intent to defraud; misrepresents a person as being a~~
 3 ~~physician licensed under IC 25-22.5; or~~
 4 ~~(11) knowingly and intentionally defrauds another person~~
 5 ~~furnishing cable TV service by avoiding paying compensation for~~
 6 ~~that service by any scheme or device or by tampering with~~
 7 ~~facilities or equipment of the person furnishing the service;~~
 8 commits deception, a Class A misdemeanor.

9 (b) In determining whether an advertisement is false, misleading, or
 10 deceptive under subsection ~~(a)(9)~~; **(a)(8)**, there shall be considered,
 11 among other things, not only representations contained or suggested in
 12 the advertisement, by whatever means, including device or sound, but
 13 also the extent to which the advertisement fails to reveal material facts
 14 in the light of the representations.

15 SECTION 10. IC 35-43-5-3.5, AS AMENDED BY P.L.137-2009,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2011]: Sec. 3.5. (a) Except as provided in subsection (c), a
 18 person who knowingly or intentionally obtains, possesses, transfers, or
 19 uses the identifying information of another person, including the
 20 identifying information of a person who is deceased:

21 (1) without the other person's consent; and

22 (2) with intent to:

23 (A) harm or defraud another person;

24 (B) assume another person's identity; or

25 (C) profess to be another person;

26 commits identity deception, a Class D felony.

27 (b) However, the offense defined in subsection (a) is a Class C
 28 felony if:

29 (1) a person obtains, possesses, transfers, or uses the identifying
 30 information of more than one hundred (100) persons;

31 (2) the fair market value of the fraud or harm caused by the
 32 offense is at least fifty thousand dollars (\$50,000); ~~or~~

33 (3) a person obtains, possesses, transfers, or uses the identifying
 34 information of a person who is less than eighteen (18) years of
 35 age and is:

36 (A) the person's son or daughter;

37 (B) a dependent of the person;

38 (C) a ward of the person; or

39 (D) an individual for whom the person is a guardian; ~~or~~

40 **(4) a person obtains, possesses, transfers, or uses the**
 41 **identifying information of another person with intent to:**

42 **(A) commit terrorism; or**

43 **(B) obtain or transport a weapon of mass destruction.**

44 (c) The conduct prohibited in subsections (a) and (b) does not apply
 45 to:

46 (1) a person less than twenty-one (21) years of age who uses the

- 1 identifying information of another person to acquire an alcoholic
 2 beverage (as defined in IC 7.1-1-3-5);
 3 (2) a minor (as defined in IC 35-49-1-4) who uses the identifying
 4 information of another person to acquire:
 5 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 6 (B) a periodical, a videotape, or other communication medium
 7 that contains or depicts nudity (as defined in IC 35-49-1-5);
 8 (C) admittance to a performance (live or film) that prohibits
 9 the attendance of the minor based on age; or
 10 (D) an item that is prohibited by law for use or consumption by
 11 a minor; or
 12 (3) any person who uses the identifying information for a lawful
 13 purpose.
 14 (d) It is not a defense in a prosecution under subsection (a) or (b)
 15 that no person was harmed or defrauded.
 16 SECTION 11. IC 35-43-5-3.8, AS ADDED BY P.L.137-2009,
 17 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2011]: Sec. 3.8. (a) A person who knowingly or intentionally
 19 obtains, possesses, transfers, or uses the synthetic identifying
 20 information:
 21 (1) with intent to harm or defraud another person;
 22 (2) with intent to assume another person's identity; or
 23 (3) with intent to profess to be another person;
 24 commits synthetic identity deception, a Class D felony.
 25 (b) The offense under subsection (a) is a Class C felony if:
 26 (1) a person obtains, possesses, transfers, or uses the synthetic
 27 identifying information of more than one hundred (100) persons;
 28 or
 29 (2) the fair market value of the fraud or harm caused by the
 30 offense is at least fifty thousand dollars (\$50,000); or
 31 **(3) a person obtains, possesses, transfers, or uses the synthetic**
 32 **identifying information of another person with intent to:**
 33 **(A) commit terrorism; or**
 34 **(B) obtain or transport a weapon of mass destruction.**
 35 (c) The conduct prohibited in subsections (a) and (b) does not apply
 36 to:
 37 (1) a person less than twenty-one (21) years of age who uses the
 38 synthetic identifying information of another person to acquire an
 39 alcoholic beverage (as defined in IC 7.1-1-3-5); or
 40 (2) a minor (as defined in IC 35-49-1-4) who uses the synthetic
 41 identifying information of another person to acquire:
 42 (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
 43 (B) a periodical, a videotape, or other communication medium
 44 that contains or depicts nudity (as defined in IC 35-49-1-5);
 45 (C) admittance to a performance (live or on film) that prohibits
 46 the attendance of the minor based on age; or

1 (D) an item that is prohibited by law for use or consumption by
2 a minor.

3 (d) It is not a defense in a prosecution under subsection (a) or (b)
4 that no person was harmed or defrauded.

5 SECTION 12. IC 35-43-5-4.3, AS AMENDED BY P.L.137-2009,
6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2011]: Sec. 4.3. (a) As used in this section, "card skimming
8 device" means a device that is designed to read information encoded on
9 a credit card. The term includes a device designed to read, record, or
10 transmit information encoded on a credit card:

11 (1) directly from a credit card; or

12 (2) from another device that reads information directly from a
13 credit card.

14 (b) A person who possesses a card skimming device with intent to
15 commit:

16 (1) identity deception (IC 35-43-5-3.5);

17 (2) synthetic identity deception (IC 35-43-5-3.8); **or**

18 (3) fraud (IC 35-43-5-4); **or**

19 ~~(4) terroristic deception (IC 35-43-5-3.6);~~

20 commits unlawful possession of a card skimming device, ~~Unlawful~~
21 ~~possession of a card skimming device under subdivision (1), (2), or (3)~~
22 **is a Class D felony. However, unlawful possession of a card skimming**
23 **device under subdivision (4) with intent to commit terrorism or**
24 **obtain or transport a weapon of mass destruction is a Class C**
25 **felony.**

26 SECTION 13. IC 35-43-5-4.5, AS ADDED BY P.L.181-2005,
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2011]: Sec. 4.5. (a) A person who, knowingly and with intent
29 to defraud:

30 (1) makes, utters, presents, or causes to be presented to an insurer
31 or an insurance claimant, a claim statement that contains false,
32 incomplete, or misleading information concerning the claim;

33 (2) presents, causes to be presented, or prepares with knowledge
34 or belief that it will be presented to or by an insurer, an oral, a
35 written, or an electronic statement that the person knows to
36 contain materially false information as part of, in support of, or
37 concerning a fact that is material to:

38 (A) the rating of an insurance policy;

39 (B) a claim for payment or benefit under an insurance policy;

40 (C) premiums paid on an insurance policy;

41 (D) payments made in accordance with the terms of an
42 insurance policy;

43 (E) an application for a certificate of authority;

44 (F) the financial condition of an insurer; or

45 (G) the acquisition of an insurer;

46 or conceals any information concerning a subject set forth in

- 1 clauses (A) through (G);
 2 (3) solicits or accepts new or renewal insurance risks by or for an
 3 insolvent insurer or other entity regulated under IC 27;
 4 (4) removes:
 5 (A) the assets;
 6 (B) the record of assets, transactions, and affairs; or
 7 (C) a material part of the assets or the record of assets,
 8 transactions, and affairs;
 9 of an insurer or another entity regulated under IC 27, from the
 10 home office, other place of business, or place of safekeeping of
 11 the insurer or other regulated entity, or conceals or attempts to
 12 conceal from the department of insurance assets or records
 13 referred to in clauses (A) through (B); or
 14 (5) diverts funds of an insurer or another person in connection
 15 with:
 16 (A) the transaction of insurance or reinsurance;
 17 (B) the conduct of business activities by an insurer or another
 18 entity regulated under IC 27; or
 19 (C) the formation, acquisition, or dissolution of an insurer or
 20 another entity regulated under IC 27;
 21 commits insurance fraud. Except as provided in subsection (b),
 22 insurance fraud is a Class D felony.
 23 (b) An offense described in subsection (a) is a Class C felony if:
 24 (1) the person who commits the offense has a prior unrelated
 25 conviction under this section; or
 26 (2) the:
 27 (A) value of property, services, or other benefits obtained or
 28 attempted to be obtained by the person as a result of the
 29 offense; or
 30 (B) economic loss suffered by another person as a result of the
 31 offense;
 32 is at least ~~two thousand five hundred dollars (\$2,500)~~ **fifty**
 33 **thousand dollars (\$50,000)**.
 34 (c) A person who knowingly and with intent to defraud makes a
 35 material misstatement in support of an application for the issuance of
 36 an insurance policy commits insurance application fraud, a Class A
 37 misdemeanor.
 38 SECTION 14. IC 35-43-5-5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) A person who
 40 knowingly or intentionally issues or delivers a check, a draft, or an
 41 order on a credit institution for the payment of or to acquire money or
 42 other property, knowing that it will not be paid or honored by the credit
 43 institution upon presentment in the usual course of business, commits
 44 check deception, a Class A misdemeanor. However, the offense is a
 45 Class D felony if the amount of the check, draft, or order is at least ~~two~~
 46 ~~thousand five hundred~~ **seven hundred fifty** dollars (~~\$2,500~~) and the

1 ~~property acquired by the person was a motor vehicle: (\$750).~~

2 (b) An unpaid and dishonored check, a draft, or an order that has the
3 drawee's refusal to pay and reason printed, stamped, or written on or
4 attached to it constitutes prima facie evidence:

5 (1) that due presentment of it was made to the drawee for payment
6 and dishonor thereof; and

7 (2) that it properly was dishonored for the reason stated.

8 (c) The fact that a person issued or delivered a check, a draft, or an
9 order, payment of which was refused by the drawee, constitutes prima
10 facie evidence that the person knew that it would not be paid or
11 honored. In addition, evidence that a person had insufficient funds in
12 or no account with a drawee credit institution constitutes prima facie
13 evidence that the person knew that the check, draft, or order would not
14 be paid or honored.

15 (d) The following two (2) items constitute prima facie evidence of
16 the identity of the maker of a check, draft, or order if at the time of its
17 acceptance they are obtained and recorded, either on the check, draft,
18 or order itself or on file, by the payee:

19 (1) Name and residence, business, or mailing address of the
20 maker.

21 (2) Motor vehicle operator's license number, Social Security
22 number, home telephone number, or place of employment of the
23 maker.

24 (e) It is a defense under subsection (a) if a person who:

25 (1) has an account with a credit institution but does not have
26 sufficient funds in that account; and

27 (2) issues or delivers a check, a draft, or an order for payment on
28 that credit institution;

29 pays the payee or holder the amount due, together with protest fees and
30 any service fee or charge, which may not exceed the greater of
31 twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) (but
32 not more than two hundred fifty dollars (\$250)) of the amount due, that
33 may be charged by the payee or holder, within ten (10) days after the
34 date of mailing by the payee or holder of notice to the person that the
35 check, draft, or order has not been paid by the credit institution. Notice
36 sent in the manner set forth in IC 26-2-7-3 constitutes notice to the
37 person that the check, draft, or order has not been paid by the credit
38 institution. The payee or holder of a check, draft, or order that has been
39 dishonored incurs no civil or criminal liability for sending notice under
40 this subsection.

41 (f) A person does not commit a crime under subsection (a) when:

42 (1) the payee or holder knows that the person has insufficient
43 funds to ensure payment or that the check, draft, or order is
44 postdated; or

45 (2) insufficiency of funds or credit results from an adjustment to
46 the person's account by the credit institution without notice to the

1 person.
 2 SECTION 15. IC 35-43-5-7 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) A person who
 4 knowingly or intentionally:
 5 (1) obtains public relief or assistance by means of impersonation,
 6 fictitious transfer, false or misleading oral or written statement,
 7 ~~fraudulent~~ **fraudulent** conveyance, or other fraudulent means;
 8 (2) acquires, possesses, uses, transfers, sells, trades, issues, or
 9 disposes of:
 10 (A) an authorization document to obtain public relief or
 11 assistance; or
 12 (B) public relief or assistance;
 13 except as authorized by law;
 14 (3) uses, transfers, acquires, issues, or possesses a blank or
 15 incomplete authorization document to participate in public relief
 16 or assistance programs, except as authorized by law;
 17 (4) counterfeits or alters an authorization document to receive
 18 public relief or assistance, or knowingly uses, transfers, acquires,
 19 or possesses a counterfeit or altered authorization document to
 20 receive public relief or assistance; or
 21 (5) conceals information for the purpose of receiving public relief
 22 or assistance to which ~~he~~ **the person** is not entitled;
 23 commits welfare fraud, a Class A misdemeanor, except as provided in
 24 subsection (b).
 25 (b) The offense is:
 26 (1) a Class D felony if
 27 ~~(A) the amount of public relief or assistance involved is more~~
 28 ~~than two hundred fifty dollars (\$250)~~ **seven hundred fifty**
 29 **dollars (\$750)** but less than ~~two thousand five hundred dollars~~
 30 ~~(\$2,500); or~~
 31 ~~(B) the amount involved is not more than two hundred fifty~~
 32 ~~dollars (\$250) and the person has a prior conviction of welfare~~
 33 ~~fraud under this section;~~ **fifty thousand dollars (\$50,000);**
 34 and
 35 (2) a Class C felony if the amount of public relief or assistance
 36 involved is ~~two thousand five hundred dollars (\$2,500)~~ **fifty**
 37 **thousand dollars (\$50,000)** or more. ~~regardless of whether the~~
 38 ~~person has a prior conviction of welfare fraud under this section.~~
 39 (c) Whenever a person is convicted of welfare fraud under this
 40 section, the clerk of the sentencing court shall certify to the appropriate
 41 state agency and the appropriate agency of the county of the defendant's
 42 residence:
 43 (1) ~~his~~ **the person's** conviction; and
 44 (2) whether the defendant is placed on probation and restitution
 45 is ordered under IC 35-38-2.
 46 SECTION 16. IC 35-43-5-7.1, AS AMENDED BY P.L.1-2006,

1 SECTION 531, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2011]: Sec. 7.1. (a) Except as provided in
3 subsection (b), a person who knowingly or intentionally:

4 (1) files a Medicaid claim, including an electronic claim, in
5 violation of IC 12-15;

6 (2) obtains payment from the Medicaid program under IC 12-15
7 by means of a false or misleading oral or written statement or
8 other fraudulent means;

9 (3) acquires a provider number under the Medicaid program
10 except as authorized by law;

11 (4) alters with the intent to defraud or falsifies documents or
12 records of a provider (as defined in 42 CFR 1000.30) that are
13 required to be kept under the Medicaid program; or

14 (5) conceals information for the purpose of applying for or
15 receiving unauthorized payments from the Medicaid program;

16 commits Medicaid fraud, a Class D felony.

17 (b) The offense described in subsection (a) is a Class C felony if the
18 fair market value of the offense is at least ~~one hundred thousand dollars~~
19 ~~(\$100,000)~~ **fifty thousand dollars (\$50,000)**.

20 SECTION 17. IC 35-43-5-7.2 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7.2. (a) Except as
22 provided in subsection (b), a person who knowingly or intentionally:

23 (1) files a children's health insurance program claim, including an
24 electronic claim, in violation of IC 12-17.6;

25 (2) obtains payment from the children's health insurance program
26 under IC 12-17.6 by means of a false or misleading oral or written
27 statement or other fraudulent means;

28 (3) acquires a provider number under the children's health
29 insurance program except as authorized by law;

30 (4) alters with intent to defraud or falsifies documents or records
31 of a provider (as defined in 42 CFR 1002.301) that are required
32 to be kept under the children's health insurance program; or

33 (5) conceals information for the purpose of applying for or
34 receiving unauthorized payments from the children's health
35 insurance program;

36 commits insurance fraud, a Class D felony.

37 (b) The offense described in subsection (a) is a Class C felony if the
38 fair market value of the offense is at least ~~one hundred thousand dollars~~
39 ~~(\$100,000)~~ **fifty thousand dollars (\$50,000)**.

40 SECTION 18. IC 35-43-5-8, AS AMENDED BY P.L.57-2006,
41 SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2011]: Sec. 8. (a) A person who knowingly executes, or
43 attempts to execute, a scheme or artifice:

44 (1) to defraud a state or federally chartered or federally insured
45 financial institution;

46 **when children are present; or**

1 (2) to obtain any of the money, funds, credits, assets, securities,
 2 or other property owned by or under the custody or control of a
 3 state or federally chartered or federally insured financial
 4 institution by means of false or fraudulent pretenses,
 5 representations, or promises;

6 commits **bank fraud**, a ~~Class C~~ **Class D** felony. **However, the offense**
 7 **is a Class C felony if the total amount of property obtained is at**
 8 **least fifty thousand dollars (\$50,000).**

9 (b) As used in this section, the term "state or federally chartered or
 10 federally insured financial institution" means:

11 (1) an institution with accounts insured by the Federal Deposit
 12 Insurance Corporation;

13 (2) a credit union with accounts insured by the National Credit
 14 Union Administration Board;

15 (3) a federal home loan bank or a member, as defined in Section
 16 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422), as in
 17 effect on December 31, 1990, of the Federal Home Loan Bank
 18 System; or

19 (4) a bank, banking association, land bank, intermediate credit
 20 bank, bank for cooperatives, production credit association, land
 21 bank association, mortgage association, trust company, savings
 22 bank, or other banking or financial institution organized or
 23 operating under the laws of the United States or of the state.

24 The term does not include a lender licensed under IC 24-4.5.

25 SECTION 19. IC 35-43-5-12 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) As used in this
 27 section, "financial institution" refers to a state or federally chartered
 28 bank, savings bank, savings association, or credit union.

29 (b) A person who knowingly or intentionally obtains property,
 30 through a scheme or artifice, with intent to defraud:

31 (1) by issuing or delivering a check, a draft, an electronic debit,
 32 or an order on a financial institution:

33 (A) knowing that the check, draft, order, or electronic debit
 34 will not be paid or honored by the financial institution upon
 35 presentment in the usual course of business;

36 (B) using false or altered evidence of identity or residence;

37 (C) using a false or an altered account number; or

38 (D) using a false or an altered check, draft, order, or electronic
 39 instrument;

40 (2) by:

41 (A) depositing the minimum initial deposit required to open an
 42 account; and

43 (B) either making no additional deposits or making insufficient
 44 additional deposits to insure debits to the account; or

45 (3) by opening accounts with more than one (1) financial
 46 institution in either a consecutive or concurrent time period;

1 commits check fraud, a Class D felony. However, the offense is a Class
2 C felony if the person has a prior unrelated conviction under this
3 section or the aggregate amount of property obtained is at least
4 ~~twenty-five thousand dollars (\$25,000):~~ **fifty thousand dollars**
5 **(\$50,000)**."

6 Page 3, after line 41, begin a new paragraph and insert:
7 "SECTION 21. THE FOLLOWING ARE REPEALED
8 [EFFECTIVE JULY 1, 2011]: IC 35-43-4-2.5; IC 35-43-5-3.6."
9 Renumber all SECTIONS consecutively.
(Reference is to EHB 1083 as reprinted April 8, 2011.)

Senator YOUNG R MICHAEL