

CHAPTER 66

(HB 126)

AN ACT relating to crimes and punishments.

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

➔Section 1. KRS 194A.990 is amended to read as follows:

- (1) (a) Any person who violates the provisions of KRS 194A.505(1), (2), or (7) shall be guilty of a Class ~~B~~^A misdemeanor~~+~~ unless:
 1. The sum total of benefits received in excess of that to which the person was entitled at the time of the offense was committed is valued at *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*~~or over one hundred dollars (\$100), in which case it is a Class D felony~~
 2. *The sum total of benefits received in excess of that to which the person was entitled at the time the offense was committed is valued at or above one thousand dollars (\$1,000) in which case it is a Class D felony; or*
 3. *The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.*
- (b) *If any person commits two (2) or more separate violations of the provisions of KRS 194A.505(1), (2), or (7) within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*
- (2) Any person who violates KRS 194A.505(3) shall be guilty of a Class D felony.
- (3) Any person who violates the provisions of KRS 194A.505(4) or (5) shall be guilty of a Class C felony.
- (4) Any person who violates the provisions of KRS 194A.505(6) shall be guilty of a Class D felony, unless the purpose of the violation is to obtain ten thousand dollars (\$10,000) or more, in which case it shall be a Class C felony.
- (5) Any person who violates KRS 194A.505(1) to (6) shall, in addition to any other penalties provided by law, forfeit and pay a civil penalty of payment to the cabinet in the amount of all benefits and payments to which the person was not entitled.
- (6) Any provider who violates KRS 194A.505(1) to (6) shall, in addition to any other penalties provided by law, including the penalty set forth in subsection (5) of this section, forfeit and pay civil penalties of:
 - (a) Payment to the State Treasury's general revenue fund in an amount equal to three (3) times the amount of the benefits and payments to which the person was not entitled; and
 - (b) Payment to the State Treasury's general revenue fund of all reasonable expenses that the court determines have been necessarily incurred by the state in the enforcement of this section.

➔Section 2. KRS 205.8463 is amended to read as follows:

- (1) No person shall knowingly or wantonly devise a scheme or plan a scheme or artifice, or enter into an agreement, combination, or conspiracy to obtain or aid another in obtaining payments from any medical assistance program under this chapter by means of any fictitious, false, or fraudulent application, claim, report, or document submitted to the Cabinet for Health and Family Services, or intentionally engage in conduct which advances the scheme or artifice.
- (2) No person shall intentionally, knowingly, or wantonly make, present, or cause to be made or presented to an employee or officer of the Cabinet for Health and Family Services any false, fictitious, or fraudulent statement, representation, or entry in any application, claim, report, or document used in determining rights to any benefit or payment.

- (3) No person shall, with intent to defraud, knowingly make, or induce, or seek to induce the making of a false statement or false representation of a material fact with respect to the conditions or operations of an institution or facility in order that the institution or facility may qualify, upon initial certification or upon recertification, as a hospital, skilled-nursing facility, intermediate-care facility, home-health agency, or other provider of services to the Medical Assistance Program.
- (4) No person shall, in any matter within the jurisdiction of the Cabinet for Health and Family Services under this chapter, knowingly falsify, conceal, or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, or fraudulent statement or representation, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry.
- (5) (a) Any person who violates subsections (1) and (2) of this section shall be guilty of a Class ~~B~~~~A~~ misdemeanor unless:
1. The sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;* ~~three hundred dollars (\$300) or more in which case it shall be a Class D felony~~
 2. *The sum total of benefits or payments claimed in any application, claim, report, or document, or in any combination or aggregation thereof, is valued at or above one thousand dollars (\$1,000), in which case it is a Class D felony; or*
 3. *The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.*
- (b) *If any person commits two (2) or more separate violations of subsections (1) and (2) of this section within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*
- (6) Any person who violates the provisions of subsection (3) of this section shall be guilty of a Class C felony.
- (7) Any person who violates the provisions of subsection (4) of this section shall be guilty of a Class D felony.

➔Section 3. KRS 238.995 is amended to read as follows:

- (1) Any person who willfully conducts without the required license any activity which under this chapter requires a license shall be guilty of a Class A misdemeanor.
- (2) Any person who makes any materially false or misleading statement in making application for licensure or in submitting reports required under this chapter, or any person who willfully fails to maintain records or make entries required under this chapter, or any person who willfully refuses to produce for inspection any books, documents, or records required under this chapter shall be guilty of a Class A misdemeanor.
- (3) (a) Any person who engages in conduct designed to corrupt the outcome of any charitable gaming activity with purpose to defraud or knowing that he is facilitating a fraud shall be guilty of *a Class B misdemeanor unless:*
1. ~~[a Class A misdemeanor if]~~The amount involved is *five hundred dollars (\$500) or more but less than one thousand*~~[three hundred]~~ *dollars (\$1,000), in which case it is a Class A misdemeanor;*~~[(300) and]~~
 2. ~~[a Class D felony if]~~The amount involved is *one thousand*~~[three hundred]~~ *dollars (\$1,000)*~~[(300)]~~ *or more, in which case it is a Class D felony; or*
 3. *The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.*
- (b) *If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*

- (4) (a) Any person who knowingly diverts charitable gaming funds from legitimate charitable purpose or lawful expenses allowed under this chapter to his financial benefit or the financial benefit of another person shall be guilty of a **Class B misdemeanor unless**:
1. ~~{a Class A misdemeanor if }~~The amount involved is **five hundred dollars (\$500) or more but less than one thousand**~~{three hundred}~~ dollars (**\$1,000**), **in which case it is a Class A misdemeanor**~~;~~~~{(\$300) and}~~
 2. ~~{a Class D felony if }~~The amount involved is **one thousand**~~{three hundred}~~ dollars (**\$1,000**)~~{(\$300)}~~ or more, **in which case it is a Class D felony; or**
 3. **The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.**
- (b) **If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.**
- (5) Any person who commits a second or subsequent offense within a five (5) year period under subsection (1) or (2) of this section shall be guilty of a Class D felony.
- (6) Nothing contained in this chapter shall prohibit prosecution of a violation under KRS Chapter 528 by the Attorney General, county attorneys, or Commonwealth's attorneys.
- (7) No person shall make or cause a false entry to be made in the business records of a charitable organization; alter, erase, obliterate, delete, remove, or destroy a true entry in the business records of a charitable organization; omit to make a true entry in the business records of a charitable organization in violation of a duty to do so that he knows to be imposed upon him by law or by the nature of his position; or prevent the making of a true entry or cause the omission thereof in the business records of a charitable organization.
- (8) Violation of subsection (7) of this section or falsifying business records of a charitable organization is a Class A misdemeanor.
- ➔Section 4. KRS 341.990 is amended to read as follows:
- (1) Except as otherwise provided in subsection (11) of this section, any employee of any state agency who violates any of the provisions of KRS 341.110 to 341.230 shall be guilty of a Class B misdemeanor.
 - (2) Any person subpoenaed to appear and testify or produce evidence in an inquiry, investigation, or hearing conducted under this chapter who fails to obey the subpoena shall be guilty of a Class B misdemeanor.
 - (3) Any subject employer, or officer or agent of a subject employer, who violates subsection (1) of KRS 341.470 shall be guilty of a Class A misdemeanor.
 - (4) Any person who violates subsection (2) of KRS 341.470 shall be guilty of a Class A misdemeanor.
 - (5) (a) Any person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact to the secretary to obtain or increase any benefit under this chapter or under an employment security law of any other state, or of the federal government, either for himself or for any other person, business entity, or organization shall be guilty of a Class ~~B~~**A** misdemeanor unless:
 1. The value of the benefits procured or attempted to be procured is **five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor**~~;~~~~{one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony}~~
 2. **The value of the benefits procured or attempted to be procured is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or**
 3. **The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be**

measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

- (b) *If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*
- (6) (a) Any person who knowingly makes a false statement or representation, or who knowingly fails to disclose a material fact to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject to this chapter, or to avoid or reduce any payment required of an employing unit under this chapter shall be guilty of a Class ~~B~~~~A~~ misdemeanor unless:
1. The liability avoided or attempted to be avoided is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*~~one hundred dollars (\$100) or more, in which case he shall be guilty of a Class D felony~~
 2. *The liability avoided or attempted to be avoided is one thousand dollars (\$1,000) or more, in which case it is a Class D felony; or*
 3. *The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.*
- (b) *If any person commits two (2) or more separate offenses under paragraph (a) of this subsection within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*
- (c)~~(b)~~ Any person who willfully fails or refuses to furnish any reports required, or to produce or permit the inspection or copying of records required in this chapter shall be guilty of a Class B misdemeanor. Each such false statement, representation or failure and each day of failure or refusal shall constitute a separate offense.
- (7) In any prosecution for the violation of subsection (5) or (6) of this section, it shall be a defense if the person relied on the advice of an employee or agent of the Office of Unemployment Insurance, Department of Workforce Investment.
- (8) Any person who willfully violates any provision of this chapter or any rule or regulation under it, the violation of which is made unlawful or the observance of which is required under the terms of this chapter, and for which no specific penalty is prescribed in this chapter or in any other applicable statute, shall be guilty of a violation. Each day the violation continues shall constitute a separate offense.
- (9) In addition to the higher rates imposed under KRS 341.540(7), any person, whether or not an employing unit, who knowingly advises or assists an employing unit in the violation or attempted violation of KRS 341.540 or any other provision of this chapter related to determining the assignment of a contribution rate shall be subject to a civil monetary penalty of not less than five thousand dollars (\$5,000).
- (10) Proceeds from all penalties imposed under subsection (9) of this section and KRS 341.540 shall be deposited in the unemployment compensation administration account and shall be expended solely for the cost of administration of this chapter consistent with KRS 341.240.
- (11) Any person who violates the confidentiality provision in KRS 341.190(4) shall be guilty of a Class A misdemeanor.
- ➔Section 5. KRS 434.650 is amended to read as follows:
- (1) (a) A person who, with intent to defraud the issuer, a participating party, a person, or organization providing money, goods, services, or anything else of value, or any other person:
- 1.~~(a)~~ Uses for the purpose of obtaining money, goods, services, or anything else of value a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked;~~or~~

2. ~~(b)~~ Obtains money, goods, services, or anything else of value by representing without consent of the cardholder that he is the holder of a specified card or by representing that he is the holder of a card and such card has not in fact been issued; ~~or~~
3. ~~(c)~~ Uses a credit or debit card obtained or retained in violation of KRS 434.570 to 434.650, or any of such sections, or a credit or debit card which he knows is forged, expired, or revoked, as authority or identification to cash or attempts to cash or otherwise negotiate or transfer a check or other order for payment of money, whether or not negotiable, if said negotiation or transfer or attempt to negotiate or transfer would constitute a crime under KRS 514.040 or 516.030; or
4. ~~(d)~~ Deposits into his account or any account, via an automated banking device, a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document not his lawful or legal property; ~~or~~

is guilty *as provided in paragraph (b) of this subsection.*

- (b) *The penalty for violating paragraph (a) of this subsection is ~~or~~ a Class B~~A~~ misdemeanor unless:*
1. ~~If~~ The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is *five hundred dollars (\$500) or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;* ~~less than five hundred dollars (\$500);~~
 2. *The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period is one thousand dollars (\$1,000)* ~~a Class D felony if such value is five hundred dollars (\$500)~~ or more but is less than ten thousand dollars (\$10,000), *in which case it is a Class D felony;* ~~or~~
 3. *The person has three (3) or more convictions under subparagraph 1. of this paragraph within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;* or
 4. *The value of all money, goods, services, or other things of value obtained in violation of this section over a six (6) month period* ~~a Class C felony if such value~~ is ten thousand dollars (\$10,000) or more, *in which case it is a Class C felony.*

- (2) A person who receives money, goods, services, or anything else of value as a result of a false, fictitious, forged, altered, or counterfeit check, draft, money order, or any other such document having been deposited into an account via an automated banking device, knowing at the time of receipt of the money, goods, services, or item of value that the document so deposited was false, fictitious, forged, altered, or counterfeit or that the above described deposited item was not his lawful or legal property, violates this subsection and is subject to the penalties set forth in subsection (1) of this section.
- (3) Knowledge of revocation shall be presumed to have been received by a cardholder four (4) days after it has been mailed to him at the address set forth on the credit or debit card or at his last known address by registered or certified mail, return receipt requested, and, if the address is more than five hundred (500) miles from the place of mailing, by air mail. If the address is located outside the United States, Puerto Rico, the Virgin Islands, the Canal Zone, and Canada, notice shall be presumed to have been received ten (10) days after mailing by registered or certified mail.

➔Section 6. KRS 434.655 is amended to read as follows:

- (1) A cardholder who fraudulently uses a credit or debit card to obtain money, goods, services, or anything else of value after said cardholder has reported to the issuer said credit or debit card lost, as stolen, or not received is deemed to have used said credit or debit card in order to defraud the issuer; and said cardholder shall be guilty of *a Class B misdemeanor unless:*
 - (a) ~~a Class A misdemeanor if~~ The value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ~~less than~~ five hundred dollars (\$500) *or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;* ~~or~~
 - (b) *The* ~~a Class D felony if such~~ value *of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is one thousand* ~~five hundred~~ dollars

~~(\$1,000)~~~~(\$500)~~ or more but is less than ten thousand dollars (\$10,000), *in which case it is a Class D felony*; ~~[-, or]~~

- (c) *The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
 - (d) *The ~~[-a Class C felony if such]~~ value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*
- (2) A cardholder who, after using a credit or debit card, fraudulently reports to the issuer that such usage or transaction was not made by said cardholder, or that said credit or debit card was lost, stolen, or not received at the time of such usage or transaction, in order to defraud the issuer, the cardholder, or any other person in connection with said usage, shall be guilty of *a Class B misdemeanor unless*:
- (a) ~~[-a Class A misdemeanor if -]~~The value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ~~[-less than]~~ five hundred dollars (\$500) *or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor*; ~~[-]~~
 - (b) *The ~~[-a Class D felony if such]~~ value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is one thousand ~~[-five hundred]~~ dollars (\$1,000)~~(\$500)~~ or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony*; ~~[-, or]~~
 - (c) *The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
 - (d) *The ~~[-a Class C felony if such]~~ value of all money, goods, services, or other things of value furnished in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*

➔Section 7. KRS 434.690 is amended to read as follows:

- (1) A person who receives money, goods, services, or anything else of value obtained in violation of KRS 434.650, knowing or believing that it was so obtained is guilty of *a Class B misdemeanor unless*:
 - (a) ~~[-a Class A misdemeanor, if -]~~The value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is ~~[-less than]~~ five hundred dollars (\$500) *or more but is less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor*; ~~[-]~~
 - (b) *The ~~[-a Class D felony if such]~~ value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is one thousand ~~[-five hundred]~~ dollars (\$1,000)~~(\$500)~~ or more but is less than ten thousand dollars (\$10,000), in which case it is a Class D felony*; ~~[-, or]~~
 - (c) *The person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
 - (d) *The ~~[-a Class C felony if such]~~ value of all money, goods, services, and other things of value received in violation of this section over a six (6) month period is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*
- (2) A person who possesses three (3) or more tickets for airline, railroad, steamship, or other transportation service, which tickets were obtained by the use of a stolen or forged credit or debit card is presumed to know that such tickets were so obtained.

➔Section 8. KRS 514.030 is amended to read as follows:

- (1) Except as otherwise provided in KRS 217.181, a person is guilty of theft by unlawful taking or disposition when he unlawfully:
 - (a) Takes or exercises control over movable property of another with intent to deprive him thereof; or
 - (b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

- (2) Theft by unlawful taking or disposition is a Class ~~B~~~~A~~ misdemeanor unless:
- (a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony;
 - (b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense;
 - (c) The property is one (1) or more controlled substances valued collectively at less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (d) ***The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;***
 - (e) The value of the property is ***one thousand dollars (\$1,000)***~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (f) ***The person has three (3) or more convictions under paragraph (d) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;***
 - ~~(g)~~~~(e)~~ The value of the property is ten thousand dollars (\$10,000) or more but less than one million dollars (\$1,000,000), in which case it is a Class C felony;
 - ~~(h)~~~~(f)~~ The value of the property is one million dollars (\$1,000,000) or more but less than ten million dollars (\$10,000,000), in which case it is a Class B felony; or
 - ~~(i)~~~~(g)~~ The value of the property is ten million dollars (\$10,000,000) or more, in which case it is a Class B felony.
- (3) Any person convicted under subsection (2)~~(i)~~~~(g)~~ of this section shall not be released on probation or parole until he or she has served at least fifty percent (50%) of the sentence imposed, any statute to the contrary notwithstanding.
- (4) ***If any person commits two (2) or more separate offenses of theft by unlawful taking or disposition within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

➔Section 9. KRS 514.040 is amended to read as follows:

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

- (4) For purposes of subsection (1) of this section, a maker of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
- (a) The maker had no account with the drawee at the time the check or order was issued; or
 - (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the maker failed to make good within ten (10) days after receiving notice of that refusal. Notice of the refusal may include a citation to this section and a description of this section's criminal penalties and shall be deemed properly addressed when mailed to the address printed or written on the check or sight order or provided by the drawer or maker upon issuance of the check or sight order. The notice, if mailed, shall be deemed received by the addressee seven (7) days after it is placed in the United States mail. The notice may be sent by first-class mail if supported by an affidavit of service setting out the contents of the notice, the address to which the notice was mailed, that correct postage was applied, and the date the notice was placed in the United States mail. A maker makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any merchant's posted bad check handling fee not to exceed fifty dollars (\$50) and any fee imposed pursuant to subsection (5) of this section.
- (5) If a county attorney issues notice to a maker that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the maker of fifty dollars (\$50), if the instrument is paid. Money paid to the county attorney pursuant to this section shall be used only for payment of county attorney office operating expenses. Excess fees held by the county attorney on June 30 of each year shall be turned over to the county treasurer before the end of the next fiscal year for use by the fiscal court of the county.
- (6) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.
- (7) A person is guilty of theft by deception when the person issues a check or similar sight order in payment of all or any part of a child support obligation knowing that it will not be honored by the drawee.
- (8) Theft by deception is a Class ~~B~~~~A~~ misdemeanor unless:
- (a) The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*~~;~~
 - (b)~~(a)~~ *The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is one thousand dollars (\$1,000)*~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;~~;~~
 - (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of convictions were entered; or*
 - (d)~~(b)~~ *The value of the property, service, or the amount of the check or sight order referred to in subsection (6) or (7) of this section is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*
- (9) *If any person commits two (2) or more separate offenses of theft by deception within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*
- ➔Section 10. KRS 514.050 is amended to read as follows:
- (1) Except as provided in KRS 365.710, a person is guilty of theft of property lost, mislaid, or delivered by mistake when:
- (a) He comes into control of the property of another that he knows to have been lost, mislaid, or delivered under a mistake as to the nature or amount of the property or the identity of the recipient; and
 - (b) With intent to deprive the owner thereof, he fails to take reasonable measures to restore the property to a person entitled to have it.
- (2) Theft of property lost, mislaid, or delivered by mistake is a Class ~~B~~~~A~~ misdemeanor unless:

- (a) The value of the property is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor*; ~~or~~
- (b) ~~(a)~~ *The value of the property is one thousand dollars (\$1,000)* ~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; ~~or~~
- (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
- (d) ~~(b)~~ *The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*

(3) *If any person commits two (2) or more separate offenses of theft of property lost, mislaid, or delivered by mistake within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*

➔ Section 11. KRS 514.060 is amended to read as follows:

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

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

- (4) Theft of services is a Class ~~B~~~~A~~ misdemeanor unless:
 - (a) The value of the service is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor*; ~~or~~
 - (b) ~~(a)~~ *The value of the service is one thousand dollars (\$1,000)* ~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony; ~~or~~
 - (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*

(d)~~(b)~~ ***The value of the service is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.***

- (5) ***If any person commits two (2) or more separate offenses of theft of services within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

➔Section 12. KRS 514.070 is amended to read as follows:

- (1) A person is guilty of theft by failure to make required disposition of property received when:
- (a) He obtains property upon agreement or subject to a known legal obligation to make specified payment or other disposition whether from such property or its proceeds or from his own property to be reserved in equivalent amount; and
 - (b) He intentionally deals with the property as his own and fails to make the required payment or disposition.
- (2) The provisions of subsection (1) apply notwithstanding that it may be impossible to identify particular property as belonging to the victim at the time of the actor's failure to make the required payment or disposition.
- (3) An officer or employee of the government or of a financial institution is presumed:
- (a) To know any legal obligation relevant to his criminal liability under this section; and
 - (b) To have dealt with the property as his own when:
 1. He fails to account or pay upon lawful demand; or
 2. An audit reveals a shortage or falsification of accounts.
- (4) Theft by failure to make required disposition of property received is a Class ~~B~~~~A~~ misdemeanor unless:
- (a) The value of the property is ***five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;***~~;~~
 - (b)~~(a)~~ ***The value of the property is one thousand dollars (\$1,000)***~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;~~;~~
 - (c) ***A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or***
 - (d)~~(b)~~ ***The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.***
- (5) No person shall be convicted of theft by failure to make required disposition of property received when he or she has also been convicted of a violation of KRS 522.050 arising out of the same incident.
- (6) ***If any person commits two (2) or more separate offenses of theft by failure to make a required disposition of property received within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.***

➔Section 13. KRS 514.080 is amended to read as follows:

- (1) A person is guilty of theft by extortion when he intentionally obtains property of another by threatening to:
- (a) Inflict bodily injury on anyone or commit any other criminal offense; or
 - (b) Accuse anyone of a criminal offense; or
 - (c) Expose any secret tending to subject any person to hatred, contempt, or ridicule, or to impair his credit or business repute; or
 - (d) Use wrongfully his position as a public officer or servant or employee by performing some act within or related to his official duties, either expressed or implied, or by refusing or omitting to perform an official duty, either expressed or implied, in a manner affecting some person adversely; or

- (e) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the actor purports to act; or
 - (f) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense.
- (2) It is a defense to prosecution based on subsection (1)(b), (c), or (d) that the property obtained by threat of accusation, exposure, lawsuit, or other invocation of official action was claimed as restitution or indemnification for harm done in the circumstances to which accusation, exposure, lawsuit, or other official action relates, or as compensation for property or lawful services.
- (3) Theft by extortion is a Class ~~B~~~~A~~ misdemeanor unless:
- (a) The value of the property obtained is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*~~;~~
 - (b)~~(a)~~ *The value of the property is one thousand dollars (\$1,000)*~~Five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;~~;~~
 - (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
 - (d)~~(b)~~ *The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*
- (4) *If any person commits two (2) or more separate offenses of theft by extortion within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*

➔Section 14. KRS 514.090 is amended to read as follows:

- (1) A person is guilty of theft of labor already rendered when, in payment of labor already rendered by another, he intentionally issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.
- (2) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:
 - (a) The issuer had no account with the drawee at the time the check or order was issued; or
 - (b) Payment was refused by the drawee for lack of funds, upon presentation within thirty days (30) after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal.
- (3) Theft of labor already rendered is a Class ~~B~~~~A~~ misdemeanor unless:
 - (a) The value of the labor rendered is *five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*~~;~~
 - (b)~~(a)~~ *The value of the labor rendered is one thousand dollars (\$1,000)*~~Five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;~~;~~
 - (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered; or*
 - (d)~~(b)~~ *The value of the labor rendered is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony.*
- (4) *If any person commits two (2) or more separate offenses of theft of labor already rendered within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*

➔Section 15. KRS 514.110 is amended to read as follows:

- (1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.
- (2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.
- (3) Receiving stolen property is a Class ~~B~~^A misdemeanor unless:
 - (a) *The value of the property is five hundred dollars (\$500) or more but less than one thousand dollars (\$1,000), in which case it is a Class A misdemeanor;*
 - (b) The value of the property is *one thousand dollars (\$1,000)*~~five hundred dollars (\$500)~~ or more but less than ten thousand dollars (\$10,000), in which case it is a Class D felony;
 - (c) *A person has three (3) or more convictions under paragraph (a) of this subsection within the last five (5) years, in which case it is a Class D felony. The five (5) year period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered;*
 - ~~(d)~~^(b) The value of the property is ten thousand dollars (\$10,000) or more, in which case it is a Class C felony;
 - ~~(e)~~^(c) The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or
 - ~~(f)~~^(d) The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony for the first offense and a Class A felony for each subsequent offense.
- (4) *If any person commits two (2) or more separate offenses of receiving stolen property within ninety (90) days, the offenses may be combined and treated as a single offense, and the value of the property in each offense may be aggregated for the purpose of determining the appropriate charge.*

Signed by Governor March 22, 2021.