

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### Senate Bill 553

FISCAL  
NOTE

BY SENATORS ROBERTS, BOLEY, CLEMENTS, CLINE,  
HAMILTON, MAYNARD, PITSENBARGER, SMITH, SYPOLT,  
AND TARR

[Introduced January 21, 2020; referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §61-3-24 of the Code of West Virginia, 1931, as amended, relating  
2 to crimes against property; and specifying that theft of rental equipment services is theft  
3 of services.

*Be it enacted by the Legislature of West Virginia:*

### **ARTICLE 3. CRIMES AGAINST PROPERTY.**

#### **§61-3-24. Obtaining money, property and services by false pretenses; disposing of property to defraud creditors; penalties.**

1 (a)(1) If a person obtains from another by any false pretense, token or representation, with  
2 intent to defraud, any money, goods or other property which may be the subject of larceny; or

3 (2) If a person obtains on credit from another any money, goods or other property which  
4 may be the subject of larceny, by representing that there is money due him or her or to become  
5 due him or her, and assigns the claim for such money, in writing, to the person from whom he or  
6 she obtains such money, goods or other property, and afterwards collects the money due or to  
7 become due, without the consent of the assignee, and with the intent to defraud;

8 (3) Such person is guilty of larceny. If the value of the money, goods or other property is  
9 \$1,000 or more, such person is guilty of a felony and, upon conviction thereof, shall be ~~imprisoned~~  
10 ~~in the penitentiary~~ confined in a state correctional facility not less than one year nor more than ten  
11 years, or, in the discretion of the court, be confined in jail not more than one year and be fined not  
12 more than \$2,500. If the value of the money, goods or other property is less than \$1,000, such  
13 person is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail not more  
14 than one year or fined not more than \$2,500, or both.

15 (b) If a person obtains by any false pretense, token or representation, with intent to  
16 defraud, the signature of another to a writing, the false making of which would be forgery, the  
17 person is guilty of a felony and, upon conviction thereof, shall be ~~imprisoned in the penitentiary~~  
18 confined in a state correctional facility not less than one year nor more than five years, or, in the  
19 discretion of the court, be confined in jail not more than one year and fined not more than \$2,500.

20 (c)(1) If a person removes any of his or her property out of any county with the intent to  
21 prevent the same from being levied upon by any execution; or

22 (2) If a person secretes, assigns or conveys, or otherwise disposes of any of his or her  
23 property with the intent to defraud any creditor or to prevent the property from being made liable  
24 for payment of debts; or

25 (3) If a person receives the property of another with the intent to defraud any creditor or to  
26 prevent the property from being made liable for the payment of debts;

27 (4) The person is guilty of a misdemeanor and, upon conviction thereof, shall be fined not  
28 more than \$2,500 and be confined in jail not more than one year.

29 (d) If a person, firm or corporation obtains labor, services or any other such thing of value  
30 from another by any false pretense, token or representation, with intent to defraud, the person,  
31 firm or corporation is guilty of theft of services. If the value of the labor, services or any other such  
32 thing of value is \$1,000 or more, the person, firm or corporation is guilty of a felony and, upon  
33 conviction thereof, shall be ~~imprisoned in the penitentiary~~ confined in a state correctional facility  
34 not less than one year nor more than 10 years, or, in the discretion of the court, be confined in jail  
35 not more than one year and be fined not more than \$2,500. If the value of the labor, services or  
36 any other such thing of value is less than \$1,000, the person, firm or corporation is guilty of a  
37 misdemeanor and, upon conviction thereof, shall be confined in jail not more than one year or  
38 fined not more than \$2,500, or both, in the discretion of the court.

39 (e) Theft of services includes theft of equipment rental services or the obtaining of a stop  
40 payment order on a check, draft or order for payment of money owed for services performed in  
41 good faith and in substantial compliance with a written or oral contract for services, with the  
42 fraudulent intent to permanently deprive the provider of such labor, services or other such thing  
43 of value of the payment represented by such check, draft or order. Notwithstanding the penalties  
44 set forth elsewhere in this section, any person, firm or corporation violating the provisions of this  
45 subsection is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than

- 46 two times the face value of the check, draft or order.
- 47 (f) Prosecution for an offense under this section does not bar or otherwise affect adversely
- 48 any right or liability to damages, forfeiture or other civil remedy arising from any or all elements of
- 49 the criminal offense.

NOTE: The purpose of this bill is to clarify that theft of services includes theft of equipment rental services.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.