

# SENATE BILL REPORT

## SB 5121

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As of February 12, 2019

**Title:** An act relating to embezzlement.

**Brief Description:** Concerning embezzlement.

**Sponsors:** Senator Honeyford.

**Brief History:**

**Committee Activity:** Law & Justice: 2/14/19.

### Brief Summary of Bill

- Creates a separate crime for theft by color or aid of deception.
- Sets a mandatory minimum sentence in total confinement of five years for convictions in the first degree.
- Includes the new crime in the definition of theft under Washington's Criminal Profiteering Act.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Tim Ford (786-7423)

**Background:** Embezzlement. Embezzlement is colloquially understood as theft by a person in a position of trust over another's property, business, services, or money. State law defines theft and that it may be committed in three different ways:

- to wrongfully obtain or exert unauthorized control of the property or services of another;
- by color or aid of deception to obtain control of the property or services of another; or
- to appropriate lost or misdelivered property or services of another.

Embezzlement is not defined in the crime of theft. Washington State case law holds that embezzlement is not an alternative means of committing theft, but embezzlement is one way of committing theft as defined.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Theft in the first degree is theft of property or services which exceeds \$5,000 in value. Theft in the first degree is a class B felony ranked at level II on the sentencing grid—up to 90 days incarceration for a first offense. Theft in the second degree is theft of property or services which exceeds \$750 up to \$5,000 in value. Theft in the second degree is a class C felony ranked at level I on the sentencing grid—up to 60 days for a first offense. Theft in the third degree is theft of property or services up to \$750 in value and is a gross misdemeanor. A gross misdemeanor is punishable by imprisonment in county jail up to 364 days or an amount not exceeding \$5,000 or both.

**Summary of Bill:** A separate crime of theft by color or aid of deception is created.

The first degree offense for theft by color or aid of deception is for property or services exceeding \$30,000 in value, and is a class B felony ranked at level VII on the sentencing grid. A mandatory minimum term of total confinement of at least five years is imposed. The second degree offense is for property or services in excess of \$10,000 up to \$30,000 and is ranked at level VI on the sentencing grid—12 to 14 months incarceration for a first time offense. A second degree conviction is a class C felony. The third degree offense is for property or services up to \$10,000 in value and is ranked at level V on the sentencing grid—9 to 12 months for a first time offender. A third degree conviction is a class C felony.

The new crime of theft by color or aid of deception is included in the definition of theft in the state Criminal Profiteering Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.