

Cherokee Nation Code Annotated

Title 21: Crimes and Punishments

Part VII. Crimes Against Property

Chapter 59: Embezzlement

§ 1451. "Embezzlement" defined

Cite as: 21 CNCA § 1451

A. **"Embezzlement"** is the fraudulent appropriation of property of any person or legal entity, legally obtained, to any use or purpose not intended or authorized by its owner, or the secretion of the property with the fraudulent intent to appropriate it to such use or purpose, under any of the following circumstances:

1. Where the property was obtained by being entrusted to that person for a specific purpose, use, or disposition and shall include, but not be limited to, any funds "held in trust" for any purpose;
2. Where the property was obtained by virtue of a power of attorney being granted for the sale or transfer of the property;
3. Where the property is possessed or controlled for the use of another person;
4. Where the property is to be used for a public or benevolent purpose;
5. Where any person diverts any money appropriated by law from the purpose and object of the appropriation;
6. Where any person fails or refuses to pay over to the Nation, or appropriate authority, any tax or other monies collected in accordance with relevant law, and who appropriates the tax or monies to the use of that person, or to the use of any other person not entitled to the tax or monies;
7. Where the property is possessed for the purpose of transportation, without regard to whether packages containing the property have been broken;
8. Where any person removes crops from any leased or rented premises with the intent to deprive the owner or landlord interested in the land of any of the rent due from that land, or who fraudulently appropriates the rent to that person or any other person; or
9. Where the property is possessed or controlled by virtue of a lease or rental agreement, and the property is willfully or intentionally not returned within ten (10) days after the expiration of the agreement.

Embezzlement does not require a distinct act of taking, but only a fraudulent appropriation, conversion or use of property.

B. Except as provided in subsection C of this section, embezzlement shall be punished as follows:

1. If the value of the property embezzled is less than Five Hundred Dollars (\$500.00), any person convicted shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00), or by imprisonment for a term not to exceed one (1) year, or by both such fine and imprisonment;
2. If the value of the property embezzled is Five Hundred Dollars (\$500.00), or more but less than One Thousand Dollars (\$1,000.00), any person convicted shall be guilty of a misdemeanor and shall be punished by imprisonment for a term not to exceed one (1) year or by imposition of a fine not exceeding Five Thousand Dollars (\$5,000.00) or by both such fine and imprisonment, and ordered to pay restitution to the victim as provided under the laws of this Nation;
3. If the value of the property embezzled is One Thousand Dollars (\$1,000.00) or more but less than Twenty-five Thousand Dollars (\$25,000.00), any person convicted shall be guilty of a felony and shall be punished by imprisonment for a term not to exceed three (3) years, or by imposition of a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment, and ordered to pay restitution to the victim as provided under the laws of this Nation; or
4. If the value of the property embezzled is Twenty-five Thousand Dollars (\$25,000.00) or more, any person convicted shall be guilty of a felony and shall be punished by imprisonment for a term not to exceed three (3) years, or by imposition of a fine not exceeding Ten Thousand Dollars (\$10,000.00), or by both such fine and imprisonment, and ordered to pay restitution to the victim as provided under the laws of this Nation.

For purposes of this subsection, a series of offenses may be aggregated into one offense when they are the result of the formulation of a plan or scheme or the setting up of a mechanism which, when put into operation, results in the taking or diversion of money or property on a recurring basis. When all acts result from a continuing course of conduct, they may be aggregated into one crime. Acts forming an integral part of the first taking which facilitate subsequent takings, or acts taken in preparation of several takings which facilitate subsequent takings, are relevant to determine the party's intent to commit a continuing crime.

C. Any Cherokee Nation officer, deputy or employee of such officer, who shall divert any money appropriated by law from the purpose and object of the appropriation, shall, upon

conviction, be guilty of a felony punishable by imprisonment for a term not to exceed three (3) years, and a fine equal to triple the amount of money so embezzled and ordered to pay restitution to the victim as provided under the laws of this Nation.

Historical Data

LA 10-90, eff. November 13, 1990. Amended LA 07-21, eff. February 22, 2021.