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MEMORANDUM

TO: Committee on Legal Services

FROM: Richard Sweetman, Office of Legislative Legal Services

DATE: November 9, 2016

SUBJECT: Rules of the State Board of Human Services, Department of Human Services, concerning penalties for individuals convicted of fraud in the Low-Income Energy Assistance Program (LEAP), 9 CCR 2503-7 (LLS Docket No. 160136; SOS Tracking No. 2015-00854).¹

Summary of Problem Identified and Recommendation

Section 26-1-127 (1), C.R.S., imposes a penalty of disqualification for a person who commits fraud in obtaining public assistance, stating that the person "is disqualified from participation in any public assistance program . . . for **one year for a first offense, two years for a second offense, and permanently for a third or subsequent offense**. Such disqualification is mandatory and is in addition to any other penalty imposed by law." [Emphasis added.]

But the state board of human services (state board) Rule 3.751.56 states that "[i]ndividuals who are convicted of committing fraud in the Low-Income Energy

¹ Under § 24-4-103, C.R.S., the Office of Legislative Legal Services reviews rules to determine whether they are within the promulgating agency's rule-making authority. Under § 24-4-103 (8)(c)(I), C.R.S., the rules discussed in this memorandum will expire on May 15, 2017, unless the General Assembly acts by bill to postpone such expiration.

Assistance Program (LEAP), pursuant to Section 26-1-127, C.R.S., shall be ineligible to participate in LEAP for **three years following the first conviction and permanently following the second conviction.**" [Emphasis added.] The rule imposes a different disqualification penalty than the statute imposes for the same behavior that is described in the statute. **Because Rule 3.751.56 conflicts with the statute, we recommend that Rule 3.751.56 of the rules of the state board concerning penalties for individuals convicted of fraud in LEAP not be extended.**

Analysis

1. Background: The Low-Income Energy Assistance Program.

LEAP helps qualifying utility customers in Colorado pay their energy bills. The program collects optional contributions from utility customers in the state and transfers these contributions to a non-profit organization called Energy Outreach Colorado, which provides assistance payments to or on behalf of qualifying individuals and organizations. LEAP is created and exists within title 40, C.R.S.; nonetheless, it is a public assistance program administered by the state department of human services. (See **Addendum A.**)

2. The language of the rule directly contradicts the plain language of § 26-1-127 (1), C.R.S.

Section 26-1-127 (1), C.R.S., prescribes a specific administrative penalty for a person who defrauds a public assistance program, as follows:

26-1-127. Fraudulent acts. (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1.3-401, C.R.S., if the crime is classified as a felony, or section 18-1.3-501, C.R.S., if the crime is classified as a misdemeanor. To the extent not otherwise prohibited by state or federal law, any person violating the provisions of this subsection (1) **is disqualified** from participation in any public assistance program under article 2 of this title **for one year for a**

first offense, two years for a second offense, and permanently for a third or subsequent offense. Such disqualification is mandatory and is in addition to any other penalty imposed by law. [Emphasis added.]

Despite citing to § 26-1-127, C.R.S., for its authority for rule-making, Rule 3.751.56 creates a different penalty scheme for individuals who defraud LEAP. This rule-based penalty scheme contradicts the penalty scheme set forth in the statute:

3.751.56. Penalties for Individuals Convicted of Fraud.

Individuals who are convicted of committing fraud in the Low-Income Energy Assistance Program (LEAP), pursuant to Section 26-1-127, C.R.S shall be ineligible to participate in LEAP for **three years following the first conviction and permanently following the second conviction.** [Emphasis added.]

Note that Rule 3.751.56 prohibits the same behavior that is prohibited by the statute. The rule simply refers to "[i]ndividuals who are convicted of committing fraud in the [LEAP], pursuant to Section 26-1-127, C.R.S."—i.e., individuals who commit the behavior that is described in the statute as obtaining public assistance "by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device." The difference in the penalty schemes is as clear a conflict between a statute and a rule as is possible.

Section 26-1-107 (5)(b), C.R.S., authorizes the state board to adopt "board rules" for programs administered and services provided by the state department of human services. Additionally, the state board has authority under § 26-2-104 (2)(b), C.R.S., to promulgate rules necessary to implement and administer the electronic benefits transfer service created in subsection (2) for the administration of public assistance programs. Despite this general rule-making authority, the state board may not adopt a rule that conflicts with a law.

The state board appears to interpret § 26-1-127 (1), C.R.S., as establishing a mere "floor" for an administrative penalty scheme, which permits public assistance programs to establish their own penalty schemes in excess of the statutory terms. However, there is nothing in the plain language of the provision to support that interpretation. In fact, the opposite is likely true; in enacting a common administrative penalty, the general assembly intended to *prevent* each public assistance program from establishing its own disqualification penalty for fraud.

3. It is not possible to reconcile the statutory penalty scheme with the rule-based penalty scheme.

Notably, § 26-1-127 (1), C.R.S., includes qualifying language stating that an administrative disqualification imposed pursuant to the statute is "mandatory" and "in addition to any other penalty imposed by law." The state board appears to interpret this qualifying language as permitting the state board to establish a rule-based penalty scheme that imposes penalties "in addition to" the penalties described in the statute. Such an interpretation is not supported by the plain language of the statute or the operation of the rule.

First, the phrase "any other penalty imposed by law" is not typically interpreted to include penalties that are imposed by rule, and not by law.² If the general assembly had intended § 26-1-127 (1), C.R.S., to be so interpreted, it could have used language such as "any other penalty imposed by law *or by rule*" when the general assembly amended this language into subsection (1) in 1994 (in S.B. 94-041, see **Addendum B**), or when the general assembly further amended subsection (1) in 1997 (in S.B. 97-120, see **Addendum C**).³ But it did not do so.

When subsection (1) is read in its entirety (see above), it is clear that the phrase "any other penalty imposed by law" means that, in addition to facing prosecution for theft (see **Addendum D**), as described in the first sentence of the provision, as well as the administrative penalty described at the end of the provision, a person who defrauds a public assistance program may also face further criminal prosecution for any of the offenses involving fraud that are described under article 5 of title 18, C.R.S. (see **Addendum E**).

Second, the nature of the conflict between the penalty described in the rule and the penalty described in the statute is such that neither penalty can ever be imposed "in addition to" the other. For example, for a first-time offender, the penalty is either a one-

² See, e.g., *Specialty Rests. Corp. v. Nelson*, 231 P.3d 393, 397 (Colo. 2010) ("[The court] will not construe a statute in a manner that assumes the General Assembly made an omission; rather, the General Assembly's failure to include particular language is a statement of legislative intent." (citing *Romer v. Bd. of County Comm'rs*, 956 P.2d 566, 576 (Colo. 1998)); see also *Beeghly v. Mack*, 20 P.3d. 610,613 (Colo. 2001) ("Under the rule of interpretation *expressio unius exclusio alterius*, the inclusion of certain items implies the exclusion of others."); see also *Black's Law Dictionary* 1224 (6th ed. 1990) (defining "provided by law" to mean "prescribed or provided by some statute").

³ For examples of the general assembly's use of such language and variations of it, see sections 1-7.5-107 (1), 10-3-109 (3), 24-6-308 (1)(I), 24-30-203.5 (1)(b)(II), 24-50-125.3, 24-103-403 (3)(c), 25-1-114 (1)(b), 25-1-516 (1)(b), 30-35-501, 35-9-120 (1)(b), and 42-2-121 (2)(c)(I)(H), C.R.S.

year disqualification (as the statute describes) or a three-year disqualification (as the rule describes). *Both* penalties cannot be imposed.

Recommendation

We therefore recommend that Rule 3.751.56 of the state board concerning penalties for individuals convicted of fraud in the Low-Income Energy Assistance Program (LEAP) not be extended because it conflicts with § 26-1-127 (1), C.R.S.

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Addendum A

Although LEAP is created in title 40, C.R.S., it is nonetheless a "public assistance program."

Section 26-1-127 (1), C.R.S., disqualifies a person who defrauds a public assistance program from participating in any such program "under article 2 of this title" for certain prescribed periods. But LEAP doesn't appear under article 2 of title 26, C.R.S.; it is created in § 40-8.7-104, C.R.S. Despite this apparent incongruity, it is clear that LEAP is nonetheless a "public assistance program" as contemplated by § 26-1-127 (1), C.R.S.; the "Colorado Public Assistance Act" (CPAA), article 2 of title 26, C.R.S.; and Rule 3.751.56 itself. This is made clear by a considerable weight of evidence:

- Section 26-2-103 (7) of the CPAA defines "public assistance," in part, as "*assistance payments*, food stamps, and social services provided to or on behalf of eligible recipients through programs administered or supervised by the" Colorado Department of Human Services (CDHS). [Emphasis added.] The CPAA does not define the term "public assistance program," but LEAP is clearly a "public assistance" program contemplated by the Act because LEAP provides "assistance payments . . . to or on behalf of eligible recipients through programs administered or supervised by" CDHS.
- Section 26-2-122.5 (3) of the CPAA states plainly that ". . . the low-income energy assistance program shall be administered within the staffing structure, in existence on July 1, 1991, of the state department of human services and county departments of social services, without additional FTE."
- Although Energy Outreach Colorado collects contributions from utilities, holds the money, and then uses the money to provide assistance to eligible utility customers, it is CDHS that certifies these customers as eligible. (See § 40-8.7-109 (1)(a), C.R.S.)
- Section 40-8.7-112 (1), C.R.S., creates the low-income energy assistance fund within CDHS and authorizes CDHS to administer that fund for the sole purpose of "increasing available funds under the low-income energy assistance program *specified in section 26-1-109, C.R.S.*" [Emphasis added.] Now, § 26-1-109 does not actually reference LEAP by name; the section is a general administrative provision that, among other things, authorizes CDHS as the "sole state agency for administering the state

plans for *public assistance* and welfare, including but not limited to *assistance payments*; . . . in cooperation with the federal government." [Emphasis added.]

- The rules that exist for LEAP, including the rule that is at issue today, are promulgated by the state board of human services and exist in the Code of Colorado Regulations alongside rules governing other public assistance programs administered by CDHS, such as the Adult Financial Programs, Colorado Works Program, and the Colorado Child Care Assistance Program. (See 9 CCR 2503-5, 9 CCR 2503-6, 9 CCR 2503-7, and 9 CCR 2503-9.)
- Finally, and most obviously, the LEAP Rule 3.751.56 that is at issue cites plainly to § 26-1-127 (1), C.R.S.—a statutory provision that does only one thing, and that is penalize persons who defraud public assistance programs.

Addendum B
Session Laws of Colorado 1994
Second Regular Session, 59th General Assembly

CHAPTER 330
SOCIAL SERVICES

SENATE BILL 94-041 [\[Digest\]](#)

BY SENATORS Ruddick, Bishop, Blickensderfer, Hopper, Johnson, Meiklejohn, Norton, R. Powers, Schroeder, Tebedo, Traylor, Wattenberg, and Wham;
also REPRESENTATIVES Agler, Chlouber, Epps, Fleming, Friednash, Greenwood, Hagedorn, Jerke, Kaufman, Kerns, Kreutz, Lawrence, Martin, Nichol, Pfiffner, Prinster, Rupert, Snyder, and Williams.

AN ACT

CONCERNING FRAUDULENT OBTAINMENT OF PUBLIC ASSISTANCE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 4. 26-1-127 (1), Colorado Revised Statutes, 1989 Repl. Vol., is amended, and the said 26-1-127 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

26-1-127. Fraudulent acts. (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title to which ~~he~~ THE PERSON is not entitled or in an amount greater than that to which ~~he~~ THE PERSON is justly entitled or payment of any forfeited installment grants or benefits to which ~~he~~ THE PERSON is not entitled or in a greater amount than that to which ~~he~~ THE PERSON is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1-105, C.R.S., if the crime is classified as a felony, or section 18-1-106, C.R.S., if the crime is classified as a misdemeanor. TO THE EXTENT NOT OTHERWISE PROHIBITED BY STATE OR FEDERAL LAW, ANY PERSON VIOLATING THE PROVISIONS OF THIS SUBSECTION (1) IS DISQUALIFIED FROM PARTICIPATION IN ANY PUBLIC ASSISTANCE PROGRAM UNDER ARTICLE 2 OF THIS TITLE FOR SIX MONTHS FOR A FIRST OFFENSE, ONE YEAR FOR A SECOND OFFENSE, AND PERMANENTLY FOR A THIRD OR SUBSEQUENT OFFENSE. SUCH DISQUALIFICATION IS MANDATORY AND IS IN ADDITION TO ANY OTHER PENALTY IMPOSED BY LAW.

(1.5) TO THE EXTENT NOT OTHERWISE PROHIBITED BY STATE OR FEDERAL LAW, ANY PERSON AGAINST WHOM A COUNTY DEPARTMENT OF SOCIAL SERVICES OR THE STATE DEPARTMENT OBTAINS A CIVIL JUDGMENT IN A STATE OR FEDERAL COURT OF RECORD IN THIS STATE BASED ON ALLEGATIONS THAT THE PERSON OBTAINED OR WILLFULLY AIDED AND ABETTED ANOTHER TO OBTAIN PUBLIC ASSISTANCE OR VENDOR PAYMENTS OR MEDICAL ASSISTANCE AS DEFINED IN THIS TITLE TO WHICH THE PERSON IS NOT ENTITLED OR IN AN AMOUNT GREATER THAN THAT TO WHICH THE PERSON IS JUSTLY ENTITLED OR PAYMENT OF ANY FORFEITED INSTALLMENT GRANTS OR BENEFITS TO WHICH THE PERSON IS NOT ENTITLED OR IN A GREATER AMOUNT THAN THAT TO WHICH THE PERSON IS ENTITLED, BY

MEANS OF A WILLFULLY FALSE STATEMENT OR REPRESENTATION, OR BY IMPERSONATION, OR BY ANY OTHER FRAUDULENT DEVICE, IS DISQUALIFIED FROM PARTICIPATION IN ANY PUBLIC ASSISTANCE PROGRAM UNDER ARTICLE 2 OF THIS TITLE FOR SIX MONTHS FOR A FIRST INCIDENT, ONE YEAR FOR A SECOND INCIDENT, AND PERMANENTLY FOR A THIRD OR SUBSEQUENT INCIDENT. SUCH DISQUALIFICATION IS MANDATORY AND IS IN ADDITION TO ANY OTHER REMEDY AVAILABLE TO A JUDGMENT CREDITOR.

Addendum C

Session Laws of Colorado 1997 First Regular Session, 61st General Assembly

CHAPTER 234 HUMAN SERVICES - SOCIAL SERVICES

SENATE BILL 97-120 [\[Digest\]](#)

BY SENATORS Coffman, Hopper, Pascoe, Reeves, and Wham;
also REPRESENTATIVES C. Berry, Schwarz, Arrington, Dyer, Epps, Grampsas, Hagedorn, Lamborn, Lawrence, Musgrave, Owen, Pankey, Salaz, Smith, Snyder, and Young.

AN ACT

CONCERNING WELFARE REFORM, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 13. 26-1-127 (1) and (1.5), Colorado Revised Statutes, 1989 Repl. Vol., as amended, are amended to read:

26-1-127. Fraudulent acts. (1) Any person who obtains or any person who willfully aids or abets another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, commits the crime of theft, which crime shall be classified in accordance with section 18-4-401 (2), C.R.S., and which crime shall be punished as provided in section 18-1-105, C.R.S., if the crime is classified as a felony, or section 18-1-106, C.R.S., if the crime is classified as a misdemeanor. To the extent not otherwise prohibited by state or federal law, any person violating the provisions of this subsection (1) is disqualified from participation in any public assistance program under article 2 of this title for ~~six months~~ ONE YEAR for a first offense, ~~one year~~ TWO YEARS for a second offense, and permanently for a third or subsequent offense. Such disqualification is mandatory and is in addition to any other penalty imposed by law.

(1.5) To the extent not otherwise prohibited by state or federal law, any person against whom a county department of social services or the state department obtains a civil judgment in a state or federal court of record in this state based on allegations that the person obtained or willfully aided and abetted another to obtain public assistance or vendor payments or medical assistance as defined in this title to which the person is not entitled or in an amount greater than that to which the person is justly entitled or payment of any forfeited installment grants or benefits to which the person is not entitled or in a greater amount than that to which the person is entitled, by means of a willfully false statement or representation, or by impersonation, or by any other fraudulent device, is disqualified from participation in any public assistance program under article 2 of this title for ~~six months~~ ONE YEAR for a first incident, ~~one year~~ TWO YEARS for a second incident, and permanently for a third or subsequent incident. Such disqualification is mandatory and is in addition to any other remedy available to a judgment creditor.

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Addendum D

18-4-401. Theft. (1) A person commits theft when he or she knowingly obtains, retains, or exercises control over anything of value of another without authorization or by threat or deception; or receives, loans money by pawn or pledge on, or disposes of anything of value or belonging to another that he or she knows or believes to have been stolen, and:

- (a) Intends to deprive the other person permanently of the use or benefit of the thing of value;
- (b) Knowingly uses, conceals, or abandons the thing of value in such manner as to deprive the other person permanently of its use or benefit;
- (c) Uses, conceals, or abandons the thing of value intending that such use, concealment, or abandonment will deprive the other person permanently of its use or benefit;
- (d) Demands any consideration to which he or she is not legally entitled as a condition of restoring the thing of value to the other person; or
- (e) Knowingly retains the thing of value more than seventy-two hours after the agreed-upon time of return in any lease or hire agreement.

(1.5) For the purposes of this section, a thing of value is that of "another" if anyone other than the defendant has a possessory or proprietary interest therein.

(2) Theft is:

- (a) (Deleted by amendment, L. 2007, p. 1690, § 3, effective July 1, 2007.)
- (b) A class 1 petty offense if the value of the thing involved is less than fifty dollars;
- (b.5) Repealed.
- (c) A class 3 misdemeanor if the value of the thing involved is fifty dollars or more but less than three hundred dollars;
- (d) A class 2 misdemeanor if the value of the thing involved is three hundred dollars or more but less than seven hundred fifty dollars;
- (e) A class 1 misdemeanor if the value of the thing involved is seven hundred fifty dollars or more but less than two thousand dollars;
- (f) A class 6 felony if the value of the thing involved is two thousand dollars or more but less than five thousand dollars;
- (g) A class 5 felony if the value of the thing involved is five thousand dollars or more but less than twenty thousand dollars;
- (h) A class 4 felony if the value of the thing involved is twenty thousand dollars or more but less than one hundred thousand dollars;
- (i) A class 3 felony if the value of the thing involved is one hundred thousand dollars or more but less than one million dollars; and
- (j) A class 2 felony if the value of the thing involved is one million dollars or more.

(3) and (3.1) Repealed.

(4) (a) When a person commits theft twice or more within a period of six months, two or more of the thefts may be aggregated and charged in a single count, in which event the thefts so aggregated and charged shall constitute a single offense, the penalty for which shall be based on the aggregate value of the things involved, pursuant to subsection (2) of this section.

(b) When a person commits theft twice or more against the same person pursuant to one scheme or course of conduct, the thefts may be aggregated and charged in a single count, in which event they shall constitute a single offense, the penalty for which shall be based on the aggregate value of the things involved, pursuant to subsection (2) of this section.

- (5) Theft from the person of another by means other than the use of force, threat, or intimidation is a class 5 felony without regard to the value of the thing taken.
- (6) In every indictment or information charging a violation of this section, it shall be sufficient to allege that, on or about a day certain, the defendant committed the crime of theft by unlawfully taking a thing or things of value of a person or persons named in the indictment or information. The prosecuting attorney shall at the request of the defendant provide a bill of particulars.
- (7) Repealed.
- (8) A municipality shall have concurrent power to prohibit theft, by ordinance, where the value of the thing involved is less than one thousand dollars.
- (9) (a) If a person is convicted of or pleads guilty or nolo contendere to theft by deception and the underlying factual basis of the case involves the mortgage lending process, a minimum fine of the amount of pecuniary harm resulting from the theft shall be mandatory, in addition to any other penalty the court may impose.
- (b) A court shall not accept a plea of guilty or nolo contendere to another offense from a person charged with a violation of this section that involves the mortgage lending process unless the plea agreement contains an order of restitution in accordance with part 6 of article 1.3 of this title that compensates the victim for any costs to the victim caused by the offense.
- (c) The district attorneys and the attorney general have concurrent jurisdiction to investigate and prosecute a violation of this section that involves making false statements or filing or facilitating the use of a document known to contain a false statement or material omission relied upon by another person in the mortgage lending process.
- (d) Documents involved in the mortgage lending process include, but are not limited to, uniform residential loan applications or other loan applications; appraisal reports; HUD-1 settlement statements; supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, and payroll stubs; and any required disclosures.
- (e) For the purposes of this subsection (9):
- (I) "Mortgage lending process" means the process through which a person seeks or obtains a residential mortgage loan, including, without limitation, solicitation, application, or origination; negotiation of terms; third-party provider services; underwriting; signing and closing; funding of the loan; and perfecting and releasing the mortgage.
- (II) "Residential mortgage loan" means a loan or agreement to extend credit, made to a person and secured by a mortgage or lien on residential real property, including, but not limited to, the refinancing or renewal of a loan secured by residential real property.
- (III) "Residential real property" means real property used as a residence and containing no more than four families housed separately.

Addendum E

ARTICLE 5 OF TITLE 18 OFFENSES INVOLVING FRAUD

PART 1 FORGERY, SIMULATION, IMPERSONATION, AND RELATED OFFENSES

18-5-101. Definitions.

18-5-102. Forgery.

18-5-103. Second degree forgery. (Repealed)

18-5-104. Second degree forgery.

18-5-104.5. Use of forged academic record.

18-5-105. Criminal possession of a forged instrument.

18-5-106. Criminal possession of second degree forged instrument. (Repealed)

18-5-107. Criminal possession of second degree forged instrument.

18-5-108. Merger of offenses.

18-5-109. Criminal possession of forgery devices.

18-5-110. Criminal simulation.

18-5-110.5. Trademark counterfeiting.

18-5-111. Unlawfully using slugs.

18-5-112. Obtaining signature by deception.

18-5-113. Criminal impersonation.

18-5-114. Offering a false instrument for recording.

18-5-115. Charitable fraud. (Repealed)

18-5-116. Controlled substances - inducing consumption by fraudulent means.

18-5-117. Unlawful possession of personal identifying information. (Repealed)

18-5-118. Offenses involving forgery of a penalty assessment notice issued to a minor under the age of eighteen years - suspension of driving privilege. (Repealed)

18-5-119. Theft of personal identifying information. (Repealed)

18-5-120. Gathering personal information by deception. (Repealed)

PART 2 FRAUD IN OBTAINING PROPERTY OR SERVICES

18-5-201. Definitions. (Repealed)

18-5-201.1. Definitions relating to guaranteed check cards. (Repealed)

- 18-5-202. Fraudulent use of a credit device. (Repealed)
- 18-5-202.1. Fraudulent use of guaranteed check card. (Repealed)
- 18-5-203. Theft of credit device or guaranteed check card. (Repealed)
- 18-5-204. Criminal possession of credit device or guaranteed check card. (Repealed)
- 18-5-205. Fraud by check - definitions - penalties.
- 18-5-206. Defrauding a secured creditor or debtor.
- 18-5-207. Purchase on credit to defraud.
- 18-5-208. Dual contracts to induce loan.
- 18-5-209. Issuing a false financial statement - obtaining a financial transaction device by false statements.
- 18-5-210. Receiving deposits in a failing financial institution.
- 18-5-211. Insurance fraud - definitions.

**PART 3 FRAUDULENT AND DECEPTIVE
SALES AND BUSINESS PRACTICES**

- 18-5-301. Fraud in effecting sales.
- 18-5-302. Unlawful activity concerning the selling of land.
- 18-5-303. Bait advertising.
- 18-5-304. False statements as to circulation.
- 18-5-305. Identification number - altering - possession.
- 18-5-306. Counterfeit or imitation controlled substances. (Repealed)
- 18-5-307. Fee paid to private employment agencies.
- 18-5-308. Electronic mail fraud.
- 18-5-309. Money laundering - illegal investments - penalty - definitions.

PART 4 BRIBERY AND RIGGING OF CONTESTS

- 18-5-401. Commercial bribery and breach of duty to act disinterestedly.
- 18-5-402. Rigging publicly exhibited contests.
- 18-5-403. Bribery in sports.

**PART 5 OFFENSES RELATING TO THE
UNIFORM COMMERCIAL CODE**

- 18-5-501. Definitions.
- 18-5-502. Failure to pay over assigned accounts.
- 18-5-503. Criminal liability of transferor of a bulk transfer. (Repealed)

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- 18-5-504. Concealment or removal of secured property.
- 18-5-505. Failure to pay over proceeds unlawful.
- 18-5-506. Fraudulent receipt - penalty.
- 18-5-507. False statement in receipt - penalty.
- 18-5-508. Duplicate receipt not marked - penalty.
- 18-5-509. Warehouse's goods mingled - receipts - penalty.
- 18-5-510. Delivery of goods without receipt - penalty.
- 18-5-511. Mortgaged goods receipt - penalty.
- 18-5-512. Issuance of bad check.

PART 6 IMITATION CONTROLLED SUBSTANCES ACT

18-5-601 to 18-5-606. (Repealed)

**PART 7 FINANCIAL TRANSACTION
DEVICE CRIME ACT**

- 18-5-701. Definitions.
- 18-5-702. Unauthorized use of a financial transaction device.
- 18-5-703. Criminal possession of a financial transaction device. (Repealed)
- 18-5-704. Sale or possession for sale of a financial transaction device. (Repealed)
- 18-5-705. Criminal possession or sale of a blank financial transaction device.
- 18-5-706. Criminal possession of forgery devices.
- 18-5-707. Unlawful manufacture of a financial transaction device.

**PART 8 EQUITY SKIMMING
AND RELATED OFFENSES**

- 18-5-801. Definitions.
- 18-5-802. Equity skimming of real property.
- 18-5-803. Equity skimming of a vehicle.
- 18-5-804. Civil action.

PART 9 IDENTITY THEFT AND RELATED OFFENSES

- 18-5-901. Definitions.
- 18-5-902. Identity theft.
- 18-5-903. Criminal possession of a financial device.
- 18-5-903.5. Criminal possession of an identification document.
- 18-5-904. Gathering identity information by deception.
- 18-5-905. Possession of identity theft tools.

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