

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Hardin**

A Bill

SENATE BILL 80

For An Act To Be Entitled

"AN ACT MAKING THE THEFT OF PUBLIC BENEFITS A FELONY."

Subtitle

"AN ACT MAKING THE THEFT OF PUBLIC BENEFITS A FELONY."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. (a) "Public benefits" means any federal or state funds, or any combination thereof, in cash or kind, whose distribution to the public is administered by an agency of the State of Arkansas.

(b) "Misrepresentation" means any manifestation by words or other conduct by one person to another that, under the circumstances, amounts to an assertion not in accordance with facts.

SECTION 2. A person commits theft of public benefits if he:

Obtains or retains public benefits from the Arkansas Department of Human Services or any other state agency administering the distribution of such benefits:

(1) By means of any false statement, misrepresentation, or impersonation;

(2) Through failure to disclose a material fact used in making a determination as to such person_s qualifications to receive public benefits; or

(3) Receives, retains, or disposes of public benefits knowing or having reason to know that such public benefits were obtained in violation of *this act.*

SECTION 3. Presentation of false or fictitious information or failure

1 to disclose a material fact in the process of obtaining or retaining public
2 benefits shall be prima facie evidence of intent to commit theft of public
3 benefits.

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5 SECTION 4. (a) Theft of public benefits is a Class B felony if the
6 value of the public benefit is two thousand five hundred dollars (\$2,500.00)
7 or more.

8 (b) Theft of public benefits is a Class C felony if the value of the
9 public benefit is less than two thousand five hundred dollars (\$2,500.00), but
10 more than two hundred dollars (\$200.00).

11 (c) Theft of public benefit is a Class A misdemeanor if the value of
12 the public benefit is two hundred dollars (\$200.00) or less.

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14 SECTION 5. *In addition to the extended terms of imprisonment provided*
15 *by Arkansas Code 5-4-501 for habitual offenders, any person who pleads*
16 *guilty, nolo contendere, or is found guilty of violating Section 4 of this act*
17 *shall be imprisoned:*

18 (a) For no less than seven (7) days for the second offense of any
19 felony or misdemeanor set forth in Section 4 occurring within five (5) years
20 of the first offense of any felony or misdemeanor set forth in Section 4;

21 (b) For no less than ninety (90) days for a third offense of any
22 felony or misdemeanor set forth in Section 4 occurring within five (5) years
23 of the first offense of any felony or misdemeanor set forth in Section 4.

24 (c) For at least one (1) year for a fourth or subsequent offense of
25 any felony or misdemeanor set forth in Section 4 occurring within five (5)
26 years of the first offense of any felony or misdemeanor set forth in Section
27 4.

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29 SECTION 6. *In addition to restitution, any person who pleads guilty,*
30 *nolo contendere, or is found guilty of a felony or misdemeanor set forth in*
31 *Section 4 shall be fined:*

32 (a) No less than one hundred fifty dollars (\$150) for the first
33 offense;

34 (b) No less than four hundred dollars (\$400) for the second offense
35 occurring within five (5) years of the first offense;

1 (c) No less than nine hundred dollars (\$900) for the third or
2 subsequent offense occurring within five (5) years of the first offense.

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4 SECTION 7. In addition to the penalties set forth in this chapter:

5 (a) Any recipient of food stamps *who pleads guilty, nolo contendere,*
6 *or is found guilty of a violation set forth in this act shall be ineligible*
7 *for further participation in the food stamp program, as follows:*

8 (1) For a period of six (6) months upon first occasion of an
9 offense pertaining to the receipt of food stamps;

10 (2) For a period of one (1) year upon the second occasion of an
11 offense pertaining to the receipt of food stamps;

12 (3) Permanently upon the third occasion of an offense pertaining
13 to the receipt of food stamps.

14 (b) Any recipient of AFDC *who pleads guilty, nolo contendere, or is*
15 *found guilty of a violation set forth in this act shall be ineligible for*
16 *further participation in the AFDC program, as follows:*

17 (1) For a period of six (6) months upon the first occasion of an
18 offense pertaining to the receipt of AFDC;

19 (2) For a period of one (1) year upon the second occasion of an
20 offense pertaining to the receipt of AFDC;

21 (3) Permanently upon the third occasion of an offense pertaining
22 to the receipt of AFDC.

23 (c) *Any recipient of benefits under the Special Supplemental Food*
24 *Program for Women, Infants and Children (WIC) who pleads guilty, nolo*
25 *contendere, or is found guilty of a violation set forth in this act may be*
26 *ineligible for further participation in the WIC program for up to three (3)*
27 *months.*

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29 SECTION 8. *The prosecuting attorney may deputize attorneys of the*
30 *Office of Chief Counsel of the Department of Human Services or the appropriate*
31 *state agency to prosecute offenses under this act.*

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33 SECTION 9. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

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SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 11. All laws and parts of laws in conflict with this act are hereby repealed.

/s/Senator Hardin

As Engrossed: 1/27/93 2/23/93

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