

**SUBSTITUTE FOR  
SENATE BILL NO. 23**

A bill to prohibit the theft of mail; to provide for the powers and duties of certain state and local governmental officers and entities; and to prescribe penalties and provide remedies.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 1. This act shall be known and may be cited as the "mail  
2 and mail depository protection act".

3       Sec. 2. As used in this act:

4       (a) "Mail" means a letter, postal card, package, bag, or any  
5 other article or thing contained therein, or other sealed article  
6 addressed to a person.

7       (b) "Mail carrier" means a person who is employed to deliver  
8 and collect mail.

9       (c) "Mail depository" means a mailbox, letter box, or mail  
10 receptacle, a post office or a station of a post office, a postal

1 service vehicle, or any authorized depository for mail.

2 (d) "Person" means an individual, partnership, corporation,  
3 limited liability company, association, or other legal entity.

4 Sec. 3. (1) A person shall not do any of the following with  
5 respect to mail that is addressed to another person:

6 (a) Knowingly and intentionally remove mail from a mail  
7 depository.

8 (b) Knowingly and intentionally take mail from a mail carrier.

9 (c) Obtain custody of mail by intentionally deceiving a mail  
10 carrier, or other person who rightfully possesses or controls the  
11 mail, by making a written, verbal, or electronic representation  
12 that the person knows to be false with intent to deceive and  
13 actually deceive a mail carrier or other person who possesses or  
14 controls the mail.

15 (d) Knowingly and intentionally remove the contents of mail.

16 (e) Knowingly and intentionally take mail that has been left  
17 for delivery at the location specified on the mail.

18 (f) Knowingly and intentionally take mail that has been left  
19 for collection on or adjacent to a mail depository.

20 (g) Knowingly and intentionally destroy or damage mail.

21 (h) Receive, possess, transfer, or conceal mail, knowing or  
22 having reason to believe the mail was obtained in violation of this  
23 section or in a manner that is otherwise prohibited by the law of  
24 this state or of the United States.

25 (2) Except for a person that is charged with a violation of  
26 subsection (1)(c), a person may assert 1 or more of the following  
27 as an affirmative defense to an alleged violation of subsection

1 (1):

2 (a) That the person acted with the consent of the person to  
3 whom the mail was addressed, unless that person gave consent  
4 knowing that the information would be used to commit an unlawful  
5 act.

6 (b) That the action taken was authorized or required by state  
7 or federal law, rule, or regulation, or a court order or rule.

8 (c) That the person is the legal guardian of a child or an  
9 adult and is authorized to possess the mail of that child or adult  
10 and to make decisions regarding access to that mail.

11 (3) A person asserting an affirmative defense under subsection  
12 (2) has the burden of establishing the affirmative defense by a  
13 preponderance of the evidence.

14 (4) A person who violates this section is guilty of a crime  
15 punishable as follows:

16 (a) Except as otherwise provided in subdivisions (b), (c), and  
17 (d), the person is guilty of a misdemeanor punishable by  
18 imprisonment for not more than 1 year or a fine of not more than  
19 \$500.00, or both.

20 (b) If the violation is a second violation of this section,  
21 the person is guilty of a felony punishable by imprisonment for not  
22 more than 5 years or a fine of not more than \$1,000.00, or both.

23 (c) If the violation is a third or subsequent violation of  
24 this section, the person is guilty of a felony punishable by  
25 imprisonment for not more than 10 years or a fine of not more than  
26 \$2,000.00, or both.

27 (d) If the violation of this section involved the theft of

1 mail by a person with the intent to commit fraud, the person is  
2 guilty of a felony punishable by imprisonment for not more than 5  
3 years or a fine of not more than \$1,000.00, or both.

4 (5) This section applies whether a person whose mail is  
5 obtained, or attempted to be obtained, if the person is an  
6 individual, in violation of this section is alive or deceased at  
7 the time of the violation.

8 (6) This section does not prohibit a person from being charged  
9 with, convicted of, or sentenced for any other violation of law  
10 committed by that person using mail obtained in violation of this  
11 section or any other violation of law committed by that person  
12 while violating or attempting to violate this section.

13 (7) It is an affirmative defense to a prosecution under this  
14 section that the person lawfully transferred, obtained, or  
15 attempted to obtain mail for the purpose of detecting, preventing,  
16 or deterring mail theft or another crime. The defendant has the  
17 burden of establishing the affirmative defense by a preponderance  
18 of the evidence.

19 Enacting section 1. This act takes effect 90 days after the  
20 date it is enacted into law.