HOUSE DOCKET, NO. 2414 FILED ON: 1/17/2013

HOUSE . . . . . No. 1283

The Commonwealth of Massachusetts

PRESENTED BY:

Viriato Manuel deMacedo

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to prohibiting theft or embezzlement from nonprofits or charitable organizations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	*1st Plymouth*
Sheila C. Harrington	*1st Middlesex*
Thomas J. Calter	*12th Plymouth*

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By Mr. deMacedo of Plymouth, a petition (accompanied by bill, House, No. 1283) of Viriato Manuel deMacedo, Sheila C. Harrington and Thomas J. Calter relative to prohibiting theft or embezzlement from nonprofit or charitable organizations. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *423* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act relative to prohibiting theft or embezzlement from nonprofits or charitable organizations.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 266 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after section 59, the following section:-

Section 59A. For the purposes of this section the following words shall have the following meanings:-

(a)"Nonprofit association", an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of the commonwealth or the United States or any entity which is authorized to do business in the commonwealth as a nonprofit corporation or unincorporated association under the laws of the commonwealth.

"Charitable organization", any person or entity whose purposes or actual operation are charitable in nature or one holding himself out to be a charitable organization in whole or in part, including any person or entity who in any manner employs a charitable appeal as the basis of any solicitation.

(b)Whoever steals or with intent to defraud obtains by a false pretense, or whoever unlawfully, and with intent to steal or embezzle, converts, or secretes with intent to convert, the money, goods or property of a nonprofit association or charitable organization, whether such property is or is not in his possession at the time of such conversion or secreting, shall be guilty

17 of larceny, and shall, (1) if the value of the money, goods or property exceeds $250 and does not
18 exceed $10,000, be punished by imprisonment in the state prison for no less than 30 days; (2) if
19 the value of the money, goods or property exceeds $10,000 and does not exceed $50,000, be
20 punished by imprisonment in the state prison for no less than 6 months; (3) if the value of the
21 money, goods or property exceeds $50,000, be punished by imprisonment in the state for no less
22 than 2 years. Upon release, an individual sentenced to a term of incarceration under this section
23 shall be subject to a 2 year term of probation.

24 A person found guilty of violating this section shall, in addition to any other punishment,
25 be ordered to make full restitution to the nonprofit association or charitable organization for the
26 financial loss sustained as a result of the commission of the crime except as hereinafter provided.
27 Restitution shall be imposed in addition to incarceration. The court shall order the defendant to
28 make restitution within a reasonable period of time, provided that full restitution shall be made
29 within 2 years from the date of conviction.

30 If a defendant who is required to make restitution defaults in any payment of restitution
31 or installment thereof, the court may hold him in contempt unless said defendant has made a
32 good faith effort to make restitution. If the defendant has made such good faith effort, the court
33 may, upon motion of the defendant, modify the order requiring restitution by:

34 (a) providing for additional time to make any payment in restitution;

35 (b) providing a payment plan.

36 If the defendant has failed to make a good faith effort to pay restitution, the court may
37 seize and liquidate properties and other assets owned by the defendant.

38 Restitution shall not be authorized to a party whom the court determines to be aggrieved,
39 without such party's consent.