HOUSE DOCKET, NO. 373 FILED ON: 1/14/2011

HOUSE . . . . . No. 423

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*
James M. Cantwell	*4th Plymouth*

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By Mr. deMacedo of Plymouth, a petition (accompanied by bill, House, No. 423) of Viriato Manuel deMacedo, Sheila C. Harrington and James M. Cantwell relative to prohibiting theft or embezzlement from nonprofit or charitable organizations. The Judiciary.

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 2008 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.

18 (b)Whoever steals or with intent to defraud obtains by a false pretense, or whoever
19 unlawfully, and with

20 intent to steal or embezzle, converts, or secretes with intent to convert, the money, goods
21 or property of a

22 nonprofit association or charitable organization, whether such property is or is not in his
23 possession at the

24 time of such conversion or secreting, shall be guilty of larceny, and shall, (1) if the value
25 of the money,

26 goods or property exceeds $250 and does not exceed $10,000, be punished by
27 imprisonment in the state

28 prison for no less than 30 days; (2) if the value of the money, goods or property exceeds
29 $10,000 and does

30 not exceed $50,000, be punished by imprisonment in the state prison for no less than 6
31 months; (3) if the

32 value of the money, goods or property exceeds $50,000, be punished by imprisonment in
33 the state for no

34 less than 2 years. Upon release, an individual sentenced to a term of incarceration under
35 this section shall

36 be subject to a 2 year term of probation.

37 A person found guilty of violating this section shall, in addition to any other punishment,
38 be ordered to

39 make full restitution to the nonprofit association or charitable organization for the
40 financial loss sustained

41 as a result of the commission of the crime except as hereinafter provided. Restitution
42 shall be imposed in

43 addition to incarceration. The court shall order the defendant to make restitution within a
44 reasonable

45 period of time, provided that full restitution shall be made within 2 years from the date of
46 conviction.

47 If a defendant who is required to make restitution defaults in any payment of restitution
48 or installment

49 thereof, the court may hold him in contempt unless said defendant has made a good faith
50 effort to make

51 restitution. If the defendant has made such good faith effort, the court may, upon motion
52 of the defendant,

53 modify the order requiring restitution by:

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

55 (b) providing a payment plan.

56 If the defendant has failed to make a good faith effort to pay restitution, the court may
57 seize and liquidate

58 properties and other assets owned by the defendant.

59 Restitution shall not be authorized to a party whom the court determines to be aggrieved,
60 without such

61 party's consent.