

# HOUSE . . . . . No. 423

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## 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 adoption of the accompanying bill:

An Act Relative to Prohibiting theft or embezzlement from nonprofits or Charitable Organizations.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>	<i>1/14/2011</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>	<i>2/3/2011</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>	<i>2/4/2011</i>

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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.

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven  
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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:*

1           SECTION 1. Chapter 266 of the General Laws, as appearing in the 2008 Official Edition,  
2 is hereby

3           amended by inserting after section 59, the following section:-

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

6           (a)“Nonprofit association”, an entity which is organized as a nonprofit corporation or  
7 nonprofit

8           unincorporated association under the laws of the commonwealth or the United States or  
9 any entity which

10          is authorized to do business in the commonwealth as a nonprofit corporation or  
11 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 of larceny, and shall, (1) if the value of the money,

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

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

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

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

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

be subject to a 2 year term of probation.

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

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

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

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

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

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

thereof, the court may hold him in contempt unless said defendant has made a good faith 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.