

2024 Regular Session

HOUSE BILL NO. 214

BY REPRESENTATIVE VILLIO

CRIME: Provides relative to monetary instrument abuse

1 AN ACT

2 To amend and reenact R.S. 14:72.2, relative to offenses against property; to provide relative
3 to the offense of monetary instrument abuse; to provide relative to elements of the
4 offense; to provide relative to definitions; to provide for a penalty; to provide for
5 restitution; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 14:72.2 is hereby amended and reenacted to read as follows:

8 §72.2. Monetary instrument abuse

9 A. Whoever makes, issues, possesses, sells, or otherwise transfers a
10 counterfeit or forged monetary instrument of the United States, a state, or a political
11 subdivision thereof, ~~or of an organization,~~ or a person with intent to deceive or
12 defraud another person, shall be fined not more than one million dollars but not less
13 than five thousand dollars or imprisoned, with or without hard labor, for not more
14 than ten years but not less than six months, or both.

15 B. Whoever makes, issues, possesses, sells, or otherwise transfers an
16 implement designed for or particularly suited for making a counterfeit or forged
17 monetary instrument with the intent to deceive or defraud a person shall be fined not
18 more than one million dollars but not less than five thousand dollars, or imprisoned,
19 with or without hard labor, for not more than ten years but not less than six months,
20 or both.

1 C. Upon a second or subsequent conviction of a violation of the provisions
2 of this Section, the offender shall be imprisoned with or without hard labor, for not
3 less than one year nor more than ten years and may, in addition, be required to pay
4 a fine of not more than one million dollars.

5 D. For purposes of this Section:

6 (1) "Counterfeit" means a document or writing that purports to be genuine
7 but is not, because it has been falsely made, manufactured, or composed.

8 (2) "Forged" means the false making or altering, with intent to defraud, of
9 any signature to, or any part of, any writing purporting to have legal efficacy.
10 Forged also means the washing through the use of chemical solvents or physical
11 removal of ink writing on a monetary instrument with the intent to defraud, including
12 but not limited to the washing or physical removal of a name of a payee or dollar
13 amount on a monetary instrument.

14 (3) "Monetary instrument" means:

15 (a) A note, stock certificate, treasury stock certificate, bond, treasury bond,
16 debenture, certificate of deposit, interest coupon, warrant, debit or credit instrument,
17 access device or means of electronic fund transfer, United States currency, check or
18 draft, money order, bank check, teller's check, cashier's check, traveler's check, letter
19 of credit, warehouse receipt, negotiable bill of lading, certificate of interest in or
20 participation in any profit-sharing agreement, collateral-trust certificate, pre-
21 organization certificate of subscription, transferable share, investment contract,
22 voting trust certificate, or certificate of interest in tangible or intangible property.

23 (b) An instrument evidencing ownership of goods, wares, or merchandise.

24 (c) Any other written instrument commonly known as a security.

25 (d) A certificate of interest in, certificate of participation in, certificate for,
26 receipt for, or warrant or option or other right to subscribe to or purchase, any of the
27 foregoing.

28 (e) A blank form of any of the foregoing.

(4) "Organization" means a legal entity, other than a government, established or organized for any purpose, and includes a corporation, limited liability company, company, federally insured financial institution, association, firm, partnership, joint stock company, foundation, institution, society, union, or any other association of persons which operates in or the activities of which affect intrastate, interstate, or foreign commerce.

(5) "State" includes ~~a~~ any state of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States.

~~D. E.~~ E. In addition to the penalties provided in Subsections A, ~~and B,~~ and C of this Section, a person convicted under the provisions of this Section shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense in accordance with Code of Criminal Procedure Article 883.2. ~~If a person ordered to make restitution pursuant to this Section is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.~~

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 214 Engrossed

2024 Regular Session

Villio

Abstract: Provides relative to the elements and penalties of the crime of monetary instrument abuse.

Present law provides for the crime of monetary instrument abuse.

Proposed law retains present law.

Present law provides that whoever makes, issues, possesses, sells, or otherwise transfers a counterfeit or forged monetary instrument of the U.S., a state, or a political subdivision thereof, or of an organization, or a person with intent to deceive or defraud another person, shall be fined not more than \$1,000,000 but not less than \$5,000 or imprisoned, with or without hard labor, for not more than 10 years but not less than six months, or both.

Proposed law amends present law to add the counterfeit or forged monetary instrument of a person as an item of which it is unlawful to make, issue, possess, sell, or otherwise transfer.

Proposed law further provides the intent to defraud another person as an alternative element of this present law offense.

Present law provides that whoever makes, issues, possesses, sells, or otherwise transfers an implement designed for or particularly suited for making a counterfeit or forged monetary instrument with the intent to deceive a person shall be fined not more than \$1,000,000 but not less than \$5,000, or imprisoned, with or without hard labor, for not more than 10 years but not less than six months, or both.

Proposed law amends present law to include the intent to defraud another person as an alternative element of this present law offense.

Proposed law provides that upon a second or subsequent conviction of a violation of present law, the offender shall be imprisoned with or without hard labor, for not less than one year nor more than 10 years, and may, in addition, be required to pay a fine of not more than \$1,000,000.

Present law defines the terms "counterfeit", "forged", "monetary instrument", "organization", and "state".

Proposed law retains present law relative to the definitions of "counterfeit" and "state".

Proposed law amends the definition of the term "forged" to include the washing through the use of chemical solvents or physical removal of ink writing on a monetary instrument with the intent to defraud, including but not limited to the washing or physical removal of a name of a payee or dollar amount on a monetary instrument.

Proposed law amends the definition of the term "monetary instrument" to include a check or draft.

Proposed law amends the definition of the term "organization " to include a limited liability company and federally insured financial institution.

Present law provides that in addition to the penalties provided in present law, a person convicted under present law shall be ordered to make full restitution to the victim and any other person who has suffered a financial loss as a result of the offense.

Proposed law provides that full restitution shall be made in accordance with present law (C.Cr.P. Art. 883.2).

Present law provides that if a person ordered to make restitution pursuant to present law is found to be indigent and therefore unable to make restitution in full at the time of conviction, the court shall order a periodic payment plan consistent with the person's financial ability.

Proposed law removes this provision from present law.

(Amends R.S. 14:72.2)