

Tex. Pen. Code § 32.45

Section 32.45 - Misapplication of Fiduciary Property or Property of Financial Institution

(a) For purposes of this section:

(1) "Fiduciary" includes:

(A) a trustee, guardian, administrator, executor, conservator, and receiver;

(B) an attorney in fact or agent appointed under a durable power of attorney as provided by Subtitle P, Title 2, Estates Code;

(C) any other person acting in a fiduciary capacity, but not a commercial bailee unless the commercial bailee is a party in a motor fuel sales agreement with a distributor or supplier, as those terms are defined by Section 162.001, Tax Code; and

(D) an officer, manager, employee, or agent carrying on fiduciary functions on behalf of a fiduciary.

(2) "Misapply" means deal with property contrary to:

(A) an agreement under which the fiduciary holds the property; or

(B) a law prescribing the custody or disposition of the property.

(b) A person commits an offense if he intentionally, knowingly, or recklessly misapplies property he holds as a fiduciary or property of a financial institution in a manner that involves substantial risk of loss to the owner of the property or to a person for whose benefit the property is held.

(c) An offense under this section is:

(1) a Class C misdemeanor if the value of the property misapplied is less than \$100;

(2) a Class B misdemeanor if the value of the property misapplied is \$100 or more but less than \$750;

(3) a Class A misdemeanor if the value of the property misapplied is \$750 or more but less than \$2,500;

(4) a state jail felony if the value of the property misapplied is \$2,500 or more but less than \$30,000;

(5) a felony of the third degree if the value of the property misapplied is \$30,000 or more but less than \$150,000;

(6) a felony of the second degree if the value of the property misapplied is \$150,000 or more but less than \$300,000; or

(7) a felony of the first degree if the value of the property misapplied is \$300,000 or more.

(d) An offense described for purposes of punishment by Subsections (c)(1)-(6) is increased to the next higher category of offense if it is shown on the trial of the offense that the offense was committed against an elderly individual as defined by Section 22.04.

(e) With the consent of the appropriate local county or district attorney, the attorney general has concurrent jurisdiction with that consenting local prosecutor to prosecute an offense under this section that involves the state Medicaid program.

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Amended by Acts 2017, Texas Acts of the 85th Leg. - Regular Session, ch. 324, Sec. 22.057, eff. 9/1/2017.

Amended by Acts 2015, Texas Acts of the 84th Leg. - Regular Session, ch. 1251, Sec. 21, eff. 9/1/2015.

Amended by Acts 2013, 83rd Leg. - Regular Session, ch. 128, Sec. 5, eff. 9/1/2013.

Amended By Acts 2005, 79th Leg., Ch. 728, Sec. 23.001(77), eff. 9/1/2005.

Amended By Acts 2003, 78th Leg., ch. 198, Sec. 2.137, eff. 9/1/2003

Amended By Acts 2003, 78th Leg., ch. 257, Sec. 14, eff. 9/1/2003

Amended By Acts 2003, 78th Leg., ch. 432, Sec. 3, eff. 9/1/2003.

Amended By Acts 2001, 77th Leg., ch. 1047, Sec. 1, eff. 9/1/2001

Amended By Acts 1997, 75th Leg., ch. 1036, Sec. 14, eff. 9/1/1997

Amended By Acts 1993, 73rd Leg., ch. 900, Sec. 1.01, eff. 9/1/1994

Amended by Acts 1991, 72nd Leg., ch. 565, Sec. 2, eff. 9/1/1991

Acts 1973, 63rd Leg., p. 883, ch. 399, Sec. 1, eff. 1/1/1974.