



Legislation Summary: H.B. 96, Fraud Amendments

Prepared for Rep. Cutler | Prepared by Lacey Johnson, Policy Analyst | January 14, 2025

Purpose

This document provides a legislation summary of H.B. 96, Fraud Amendments, and gives a comparison of U.S. state criminal penalties for defrauding creditors.

Utah's Law on Defrauding Creditors

Currently, in [Section 76-6-511](#) an actor commits the offense of defrauding of creditors if the actor:

- 1) destroys, conceals, removes, transfers, or encumbers property that is subject to interest with a purpose to hinder enforcement of that interest; or
- 2) knowing proceedings will be or already have been instituted for the appointment of a person entitled to administer property for creditor's benefit:
 - a. destroys, removes, encumbers, conceals, or transfers property with a purpose to defeat or obstruct the claim of any creditor, or otherwise obstructs the operation of any law related to the administration of property for creditors' benefit; or
 - b. presents a false statement, orally or in writing, to a creditor about the actor's estate knowing that a material part of the statement is false.

[H.B. 96, Fraud Amendments](#) expands the first manner by which an actor can defraud creditors. Specifically, adding "depriving the secured party of lawful possession of the property" to the purposes that an actor can have to be guilty of the offense.

Penalty for Defrauding a Creditor

The current penalty for defrauding a creditor is a class A misdemeanor. [H.B. 96, Fraud Amendments](#) amends Section 76-6-511 to create a tiered penalty based on property value. This tiered system is consistent with other Utah Fraud and theft statutes such as [Section 76-6-404, Theft](#), [Section 76-6-513, Unlawful dealing of property by a fiduciary](#), [Section 76-6-518 Criminal simulation](#), or [Section 76-5-521 Insurance fraud](#).

Table 1- H.B. 96-Tiered Penalty System for Defrauding Creditors

Property Value	Penalty
<i>Less than \$500.00</i>	Class B misdemeanor
<i>\$500.00 or more, but less than \$1,500.00</i>	Class A misdemeanor
<i>\$1,500.00 or more, but less than \$5,000.00</i>	Third degree felony
<i>\$5,000.00 or more</i>	Second degree felony

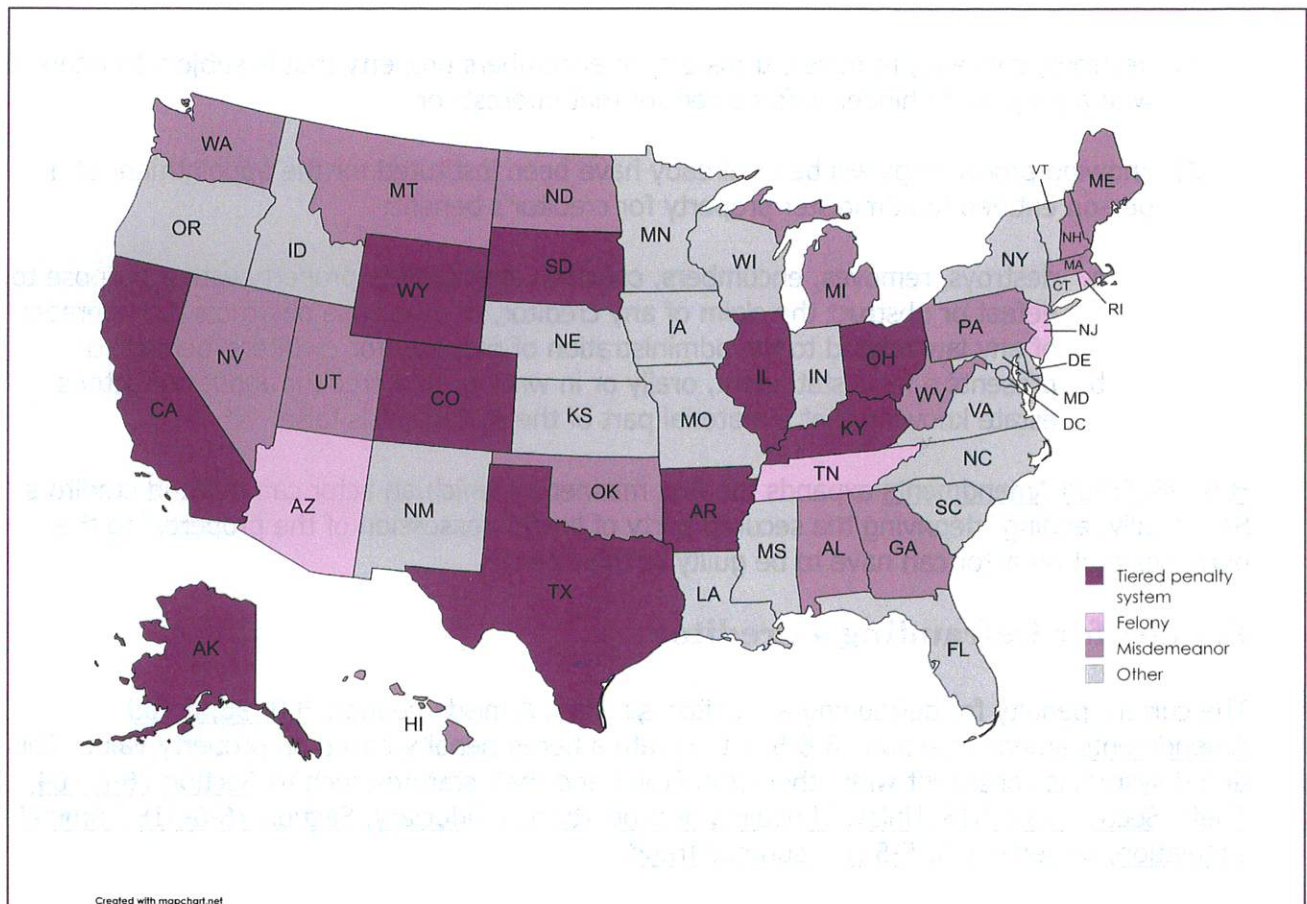
U.S. State Comparison of Penalties for Defrauding Creditors

A comparison of U.S. state laws on defrauding creditors found:



- At least 15 states, including Utah, charge defrauding a creditor as a misdemeanor.
- At least 14 states charge defrauding a creditor as a felony.
- Of the 14 states that charge defrauding a creditor as a felony, 10 have a tiered penalty system.
 - Tiered penalties vary by state and are based on pecuniary loss, collateral value, property value, interest value, or actions taken to defraud. (See Map 1)

Map 1- Defrauding Creditors, Penalties by U.S. State



States w/ Felony Penalties for Defrauding Creditors

Alaska 11-46-730
 Arizona 13-2204
 Arkansas 5-37-203
 Colorado 18-5-206
 California Penal Code 154 and Penal Code 155
 Illinois 17-27
 Kentucky 517.060
 New Jersey 2C:21-12
 Ohio 2913.45
 Rhode Island 11-18-25
 South Dakota 54-8-20 and 54-8-22
 Tennessee 39-14-116
 Texas 32.33
 Wyoming 6-3-607

Tiered System

✓ (pecuniary loss)
 ✓ (actions to defraud)
 ✓ (value of collateral)
 ✓ (property value)
 ✓ (benefit derived from violation or action to defraud)
 ✓ (property value)
 ✓ (property value)
 ✓ (actions to defraud)
 ✓ (property value)
 ✓ (value of interest)