



Dave Yost • Auditor of State

HB 553/SB 268 - Protecting Ohio's Taxpayers from Corrupt Public Officials

Increasing Theft in Office Penalties

- Since 2010 the work of the Auditor of State's office has led to the conviction of 135 former public officials for stealing taxpayer money. The most common charge our office brings against a corrupt public official is theft in office.
- Currently, theft in office has a ceiling of a 3rd degree felony. Cases over \$1 million are still only able to be prosecuted as an F3, in order to prohibit that individual from holding public office in the future. Creating a monetary threshold for F-1 and F-2 would create parity.
- The Village of Ripley Utility Clerk stole nearly \$1 million through several methods and was charged with three counts of Theft in Office, each an F-3.
- A clerk in the Perrysburg Schools Treasurer's office stole nearly \$800,000 from the school district and boosters club. He was charged with four counts of theft in office, each an F-3.
- The Legacy Academy for Leaders and the Arts, amongst other schools, were defrauded by a treasurer who stole over \$542,000. He was sentenced to two years on embezzlement charges
- Below is a comparison of the current thresholds for theft vs. theft in office. The underlined offenses are proposed changes.

Amount of Loss	Offense	Theft Penalty	Offense	Theft in Office Penalty
Less than \$1,000	M-1	Up to 6 months in jail	F-5	6-12 months in prison
\$1,000 - \$7,500	F-5	6-12 months in prison	F-4	6- 18 months in prison
\$7,500.00 - \$150,000.00	F-4	6-18 months in prison	F-3	9,12,18,24,30, or 36 months in prison
\$150,000.00 - \$750,000.00	F-3	9,12,18,24,30, or 36 months in prison	<u>F-2</u>	<u>2-8 years in prison</u>
\$750,000.00 - \$1.5 million	F-2	2-8 years in prison	<u>F-1</u>	<u>3-11 years in prison</u>
\$1.5 million or more	F-1	3-11 years in prison		

Providing Restitution for Forensic Audit Costs

- Under current statute, the costs of an audit used to determine the amount of theft in office are not recoverable by the entity. Restitution may only be ordered “as a direct and proximate result” of the loss. Courts have interpreted audit costs as not being a “direct result” of the offense.
- As an example, the STAR Community Justice Center had \$20,090 stolen, while the forensic audit to discover the full extent of the theft cost \$27,200.
- Similarly, the Pike County Clerk of Courts was charged \$15,498 to discover \$7,380 of theft.
- The Village of Barnesville paid \$14,616 to find \$16,156 in fraudulent charges.
- This bill would allow a court to order the costs of a public audit as part of restitution when the victim is a public entity. There would be no change to the restitution statute. Rather, this language would affect the theft in office statute, Section 2921.41, so that these standards are applied only to the necessary cases.