

THE LAW FIRM OF SUSAN F. FREMIT, P.C.

9130 Courthouse Road, Spotsylvania, VA 22553
Tel: (540) 322-259

2111 Wilson Blvd., Suite 700, Arlington, VA, 22201
Tel: (703) 666-9263

The FAQs about Embezzlement in Virginia

In the wake of gift card returns, electronic payments and CCTVs, employers take acts of embezzlement very seriously. Navigating the Virginia criminal justice system can be scary for anyone, but it can be especially overwhelming when it's your first time and you're facing an embezzlement charge. Below are some common FAQs related to embezzlement in Virginia.

- 1. What is embezzlement? How is it different than larceny?** In the most simple of terms, embezzlement is taking money or something of value **from an employer**; whereas larceny is from a non-employer (friends, family, business, etc.).
- 2. Does embezzlement involve only taking money out of the cash register?** While stealing money from your employee is embezzlement, so is giving store discounts to friends or others when the store does not permit those discounts.
- 3. I was charged with embezzlement but I paid back all money. Can I stay out of jail?** First of all, **paying back the money is an admission of guilt**, which can have the potential of tying your attorney's hands when it comes to negotiating with the prosecutor regarding an agreed sentence. Part of the negotiation is the strength of the prosecution's case and you have just made the prosecution's case stronger with your payment. However, if you have had no prior convictions, the guidelines may support no jail in this instance. Before you make any more missteps, hire an experienced criminal defense attorney now.
- 4. My work caught me on camera stealing \$300. My manager told me to pay it back the same day or I will spend the night in jail, so I paid back the full amount. Now I have been charged with embezzlement and people are tweeting that I shouldn't have paid it back. What do I do?** First, it is very important to retain an experienced local criminal defense lawyer immediately since paying back the money is an admission of guilt and felony embezzlement convictions have very dire consequences, including difficulty renting an apartment and finding employment. Second, keep these matters off public forums and social media; **no more tweets, Instagram posts, status updates, or texts**. This can be used as evidence by the prosecution.
- 5. I work in a dentist's office and was charged with embezzlement because I electronically transferred funds from the office account to my personal account. Is this embezzlement and what is the maximum sentence?** Yes, this could be unclassified felony embezzlement, which carries a **maximum sentence of 20 years in prison**.
- 6. I work in the County Treasurer's Office taking payments for parking tickets. I needed to pay my heating bill before it was cut off, so I borrowed some money from my cash drawer. Before I could pay it back, my boss found out and said I will be charged with a special type of felony. Is this true?** Yes, it is a class 4 felony for an employee of the Commonwealth to take public funds, which is **punishable by up to 10 years in prison**. Hire an experienced criminal defense attorney right away!

- 7.** I rented a car from Avis and did not return it by the date on the rental agreement. Now I've been charged with embezzlement and my friends on Facebook say it's no big deal. What should I do? Hire an experienced criminal defense lawyer right away! If you cannot afford one, the Court will appoint an attorney to represent you. This is a serious felony, which carries a maximum of 20 years in jail. **Stay off social media** and do not post, Instagram, tweet, text, or e-mail any more details as prosecutors and police can read everything and you are admitting to having committed a criminal offense.
- 8.** I work for a credit union and I write up mortgage agreements. A friend needed a mortgage, so I wrote in a higher annual salary than what he was making so that he would qualify for the amount he needed. Can I be charged? Yes, this is embezzlement by a company employee if an entry in the **paperwork is found of be fraudulent**.
- 9.** I am under a court order to pay support for my 8 year-old kid. My boss takes the monthly amount from my paycheck and sends it to my kid's mom. Last month, he did not send the money to her. Can I charge him? It sounds like he may have committed the offense of embezzlement. Call the police to discuss your situation.
- 10.** Does embezzlement always result in jail time for first time offenders? The sentencing guidelines for embezzlement **rarely call for incarceration**. Factors such as whether you have a prior criminal record and the amount alleged to have been taken have shown to directly impact whether a jail sentence is likely or not. However, if you have had no prior convictions, the guidelines may support no jail in this instance.
- 11.** How often does the judge use the sentence guidelines for first time offenders for a Class U felony embezzlement? Unless there is an agreed sentence between the Commonwealth and the Defendant, the Judge will take into consideration the sentencing guidelines. However, it's important to keep in mind that **sentencing guidelines are not mandatory** and there is no obligation to follow them; they simply suggest a range of possible sentences to give the presiding judge an idea of what other judges do with similar charges and similar defendants.
- 12.** I was convicted of embezzlement over 22 years ago. I received a Restoration of Rights and a simple pardon from the Governor; however, all the background check databases still show my previous record. Unfortunately, unlike some other states, Virginia does not permit expungements of convictions, so background database checks will continue to show your previous record, and any additional convictions you receive in the future. To **combat the inability to expunge your record**, you took the right steps in receiving a simple pardon, which is designed to reduce the conviction's negative impact on obtaining future employment.

This Guide does not constitute legal advice and is meant for information purposes only. Information provided is current as of April 2016 and is subject to legislative change at any time. The author of this Guide is not responsible for providing updates when legislative changes occur.

