

WITHOUT THE CONSENT OF THE PERSON PROVIDING THEM.

(F) (1) A PERSON CONVICTED OF THEFT WHERE THE PROPERTY OF SERVICES THAT WAS THE SUBJECT OF THE THEFT HAS A VALUE OF \$300 OR GREATER IS GUILTY OF A FELONY AND SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR PAY HIM THE VALUE OF THE PROPERTY OR SERVICES, AND BE FINED NOT MORE THAN \$1,000, OR BE IMPRISONED FOR NOT MORE THAN 15 YEARS, OR BE BOTH FINED AND IMPRISONED IN THE DISCRETION OF THE COURT.

(2) A PERSON CONVICTED OF THEFT WHERE THE PROPERTY OF SERVICES THAT WAS THE SUBJECT OF THE THEFT HAS A VALUE OF LESS THAN \$300 IS GUILTY OF A MISDEMEANOR AND SHALL RESTORE THE PROPERTY TAKEN TO THE OWNER OR PAY HIM THE VALUE OF THE PROPERTY OR SERVICES, AND BE FINED NOT MORE THAN \$300 \$100, OR BE IMPRISONED FOR NOT MORE THAN 18 MONTHS, OR BE BOTH FINED AND IMPRISONED IN THE DISCRETION OF THE COURT.

### 343. DEFENSES AND PRESUMPTIONS.

(A) (1) IT IS NOT A DEFENSE TO THE OFFENSE OF THEFT THAT THE DEFENDANT HAS AN INTEREST IN THE PROPERTY WHICH WAS THE SUBJECT OF THE THEFT IF ANOTHER PERSON ALSO HAS AN INTEREST OR RIGHT OF POSSESSION IN THE PROPERTY THAT THE DEFENDANT IS NOT ENTITLED TO INFRINGE.

(2) THE FOLLOWING ~~ESTABLISH~~ DELINEATE THE RIGHT OF POSSESSION:

(I) A JOINT OR COMMON OWNER OF PROPERTY DOES NOT HAVE A RIGHT OF POSSESSION OF THE PROPERTY SUPERIOR TO THAT OF ANY OTHER JOINT OR COMMON OWNER OF THE PROPERTY.

(II) IN THE ABSENCE OF A SPECIFIC AGREEMENT TO THE CONTRARY, A PERSON IN LAWFUL POSSESSION OF PROPERTY HAS A RIGHT OF POSSESSION SUPERIOR TO THAT OF A PERSON HAVING ONLY A SECURITY INTEREST IN THE PROPERTY, EVEN IF LEGAL TITLE TO THE PROPERTY LIES WITH THE HOLDER OF THE SECURITY INTEREST PURSUANT TO A CONDITIONAL SALE CONTRACT OR OTHER SECURITY AGREEMENT.

(B) IT IS NOT A DEFENSE TO THEFT THAT THE PROPERTY WAS TAKEN, OBTAINED, OR WITHHELD FROM A PERSON WHO HAD OBTAINED POSSESSION OF THE PROPERTY BY OTHER ILLEGAL MEANS.

(C) IT IS A DEFENSE TO THE OFFENSE OF THEFT THAT:

(1) THE DEFENDANT ACTED UNDER A GOOD FAITH CLAIM OF RIGHT TO THE PROPERTY INVOLVED;

(2) THE DEFENDANT ACTED IN THE HONEST BELIEF THAT HE HAD THE RIGHT TO OBTAIN OR EXERT CONTROL OVER THE PROPERTY AS HE DID;

(3) THE PROPERTY INVOLVED WAS THAT OF THE DEFENDANT'S SPOUSE, UNLESS THE DEFENDANT AND THE DEFENDANT'S SPOUSE WERE NOT LIVING TOGETHER AS MAN AND WIFE AND WERE LIVING IN SEPARATE APARTMENTS AT THE TIME OF THE ALLEGED THEFT;