



# HOUSE BILL No. 4716

May 5, 1993, Introduced by Rep. Varga and referred to the Committee on Judiciary.

A bill to amend Act No. 328 of the Public Acts of 1931,  
entitled as amended

"The Michigan penal code,"

as amended, being sections 750.1 to 750.568 of the Michigan  
Compiled Laws, by adding chapter XXA.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1 Section 1. Act No. 328 of the Public Acts of 1931, as  
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled  
3 Laws, is amended by adding chapter XXA to read as follows:

4 CHAPTER XXA

5 VULNERABLE ADULTS

6 SEC. 145M. AS USED IN THIS CHAPTER:

7 (A) "ADULT FOSTER CARE FACILITY" MEANS THAT TERM AS DEFINED  
8 IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING ACT,  
9 BEING SECTION 400.703 OF THE MICHIGAN COMPILED LAWS.

1 (B) "ADULT FOSTER CARE FACILITY LICENSING ACT" MEANS ACT NO.  
2 218 OF THE PUBLIC ACTS OF 1979, BEING SECTIONS 400.701 TO 400.737  
3 OF THE MICHIGAN COMPILED LAWS.

4 (C) "DEVELOPMENTAL DISABILITY" MEANS THAT TERM AS DEFINED IN  
5 SECTION 500 OF THE MENTAL HEALTH CODE, BEING SECTION 330.1500 OF  
6 THE MICHIGAN COMPILED LAWS.

7 (D) "FACILITY" MEANS AN ADULT FOSTER CARE FACILITY, A HOME  
8 FOR THE AGED, OR A NURSING HOME.

9 (E) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN SEC-  
10 TION 20106 OF THE PUBLIC HEALTH CODE, BEING SECTION 333.20106 OF  
11 THE MICHIGAN COMPILED LAWS.

12 (F) "MENTAL HEALTH CODE" MEANS ACT NO. 258 OF THE PUBLIC  
13 ACTS OF 1974, BEING SECTIONS 330.1001 TO 330.2106 OF THE MICHIGAN  
14 COMPILED LAWS.

15 (G) "MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN SECTION  
16 400A OF THE MENTAL HEALTH CODE, BEING SECTION 330.1400A OF THE  
17 MICHIGAN COMPILED LAWS.

18 (H) "NURSING HOME" MEANS THAT TERM AS DEFINED IN SECTION  
19 20109 OF THE PUBLIC HEALTH CODE, BEING SECTION 333.20109 OF THE  
20 MICHIGAN COMPILED LAWS.

21 (I) "OMISSION" MEANS A FAILURE TO PROVIDE THE FOOD, MEDI-  
22 CINE, CLOTHING, OR SHELTER NECESSARY FOR A VULNERABLE ADULT'S  
23 WELFARE.

24 (J) "PERSON" MEANS AN INDIVIDUAL OR A FACILITY THAT CARES  
25 FOR, HAS CUSTODY OF, OR HAS AUTHORITY OVER A VULNERABLE ADULT.

26 (K) "PHYSICAL HARM" MEANS ANY INJURY TO A VULNERABLE ADULT'S  
27 PHYSICAL CONDITION.

1 (L) "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN AN ADULT  
2 FOSTER CARE FACILITY, A HOME FOR THE AGED, OR A NURSING HOME.

3 (M) "SERIOUS PHYSICAL HARM" MEANS A TEMPORARY OR PERMANENT  
4 PHYSICAL INJURY THAT CONSTITUTES SUBSTANTIAL BODILY DISFIGUREMENT  
5 OR SERIOUSLY IMPAIRS THE FUNCTION OF A BODY ORGAN OR LIMB.

6 (N) "SERIOUS MENTAL HARM" MEANS A TEMPORARY OR PERMANENT  
7 MENTAL INJURY THAT RESULTS IN A VISIBLY DEMONSTRABLE MANIFESTA-  
8 TION OF A SUBSTANTIAL DISORDER OF THOUGHT OR MOOD THAT SIGNIFI-  
9 CANTLY IMPAIRS JUDGMENT, BEHAVIOR, CAPACITY TO RECOGNIZE REALITY,  
10 OR ABILITY TO COPE WITH THE ORDINARY DEMANDS OF LIFE.

11 (O) "VULNERABLE ADULT" MEANS AN INDIVIDUAL OVER THE AGE OF  
12 18 WHO, BECAUSE OF AGE, DEVELOPMENTAL DISABILITY, MENTAL ILLNESS,  
13 OR PHYSICAL HANDICAP, REQUIRES SUPERVISION OR ASSISTANCE WITH 1  
14 OR MORE OF THE ACTIVITIES OF DAILY LIFE.

15 SEC. 145N. (1) A PERSON WHO KNOWINGLY OR INTENTIONALLY  
16 CAUSES SERIOUS PHYSICAL HARM OR SERIOUS MENTAL HARM TO A VULNERA-  
17 BLE ADULT IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR  
18 NOT MORE THAN 15 YEARS.

19 (2) A PERSON WHOSE RECKLESS OMISSION OR ACT CAUSES SERIOUS  
20 PHYSICAL HARM OR SERIOUS MENTAL HARM TO A VULNERABLE ADULT IS  
21 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4  
22 YEARS.

23 (3) A PERSON WHO KNOWINGLY OR INTENTIONALLY CAUSES PHYSICAL  
24 HARM TO A VULNERABLE ADULT IS GUILTY OF A MISDEMEANOR PUNISHABLE  
25 BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS.

1 (4) A PERSON WHOSE RECKLESS OMISSION OR ACT CAUSES PHYSICAL  
2 HARM TO A VULNERABLE ADULT IS GUILTY OF A MISDEMEANOR PUNISHABLE  
3 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR.

4 SEC. 145o. A FACILITY OR A PERSON ACTING ON BEHALF OF A  
5 FACILITY WHO VIOLATES THE ADULT FOSTER CARE FACILITY LICENSING  
6 ACT OR THE PUBLIC HEALTH CODE AND WHOSE VIOLATION IS A PROXIMATE  
7 CAUSE OF DEATH OR SERIOUS PHYSICAL OR MENTAL HARM TO A RESIDENT  
8 OF THAT FACILITY IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT  
9 FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN \$50,000.00  
10 OR MORE THAN \$75,000.00, OR BOTH.

11 SEC. 145P. (1) A PERSON WHO KNOWINGLY DOES 1 OR MORE OF THE  
12 FOLLOWING IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT  
13 FOR NOT MORE THAN 2 YEARS OR A FINE OF NOT LESS THAN \$10,000.00  
14 OR MORE THAN \$25,000.00, OR BOTH:-

15 (A) COMMINGLES, BORROWS, OR PLEDGES FUNDS OF A RESIDENT THAT  
16 ARE REQUIRED BY LAW OR ADMINISTRATIVE RULE TO BE HELD IN A SEPA-  
17 RATE TRUST ACCOUNT.

18 (B) INTERFERES WITH OR ATTEMPTS TO INTERFERE WITH OR  
19 OBSTRUCTS OR ATTEMPTS TO OBSTRUCT AN INVESTIGATION UNDER THE  
20 ADULT FOSTER CARE FACILITY LICENSING ACT OR THE PUBLIC HEALTH  
21 CODE.

22 (C) RETALIATES OR DISCRIMINATES AGAINST A RESIDENT OR AN  
23 EMPLOYEE OF A FACILITY BECAUSE THE EMPLOYEE OR RESIDENT DOES 1 OR  
24 MORE OF THE FOLLOWING:

25 (i) PROVIDES INFORMATION TO A STATE OR LOCAL OFFICIAL  
26 ENFORCING THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE  
27 PUBLIC HEALTH CODE.

1 (ii) MAKES A COMPLAINT AGAINST A FACILITY.

2 (iii) INITIATES, PARTICIPATES IN, OR TESTIFIES IN AN ADMIN-  
3 ISTRATIVE, CIVIL, OR CRIMINAL ACTION AGAINST A FACILITY.

4 (D) FILES FALSE, INCOMPLETE, OR MISLEADING INFORMATION  
5 REQUIRED BY THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE  
6 PUBLIC HEALTH CODE.

7 (E) FAILS OR REFUSES TO FILE OR TO REPORT INFORMATION  
8 REQUIRED BY THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE  
9 PUBLIC HEALTH CODE.

10 (F) PLACES AN INDIVIDUAL IN OR REFERS AN INDIVIDUAL TO A  
11 FACILITY THAT IS OPERATING WITHOUT A LICENSE.

12 (2) A PERSON WHO HAS BEEN CONVICTED OF VIOLATING THIS SEC-  
13 TION WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION  
14 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE  
15 THAN 5 YEARS OR A FINE OF NOT LESS THAN \$25,000.00 OR MORE THAN  
16 \$75,000.00, OR BOTH.

17 SEC. 145Q. A CONVICTION OR SENTENCE IMPOSED FOR A VIOLATION  
18 OF THIS CHAPTER DOES NOT PRECLUDE A CONVICTION OR SENTENCE FOR A  
19 VIOLATION OF ANY OTHER APPLICABLE LAW.

20 Section 2. This amendatory act shall not take effect unless  
21 Senate Bill No. \_\_\_\_\_ or House Bill No. 4717 (request  
22 no. 02748'93) of the 87th Legislature is enacted into law.