

SENATE BILL NO. 113

February 27, 2025, Introduced by Senators HERTEL, ANTHONY, IRWIN, KLINEFELT, BAYER, SHINK and CAVANAGH and referred to Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending section 174a (MCL 750.174a), as amended by 2013 PA 34.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 174a. (1) A person shall not through fraud, deceit,
2 misrepresentation, coercion, or unjust enrichment obtain or use or
3 attempt to obtain or use a vulnerable adult's money or property to
4 directly or indirectly benefit that person knowing or having reason
5 to know the vulnerable adult is a vulnerable adult. **A person that**

1 violates this section while a vulnerable adult is alive and that
2 continues to violate this section after the vulnerable adult is
3 deceased by using or obtaining or attempting to use or obtain money
4 or property from the vulnerable adult's estate is subject to
5 prosecution under this section for the acts committed both during
6 the vulnerable adult's life and subsequent to the vulnerable
7 adult's death.

8 (2) If the money or property used or obtained, or attempted to
9 be used or obtained, has a value of less than \$200.00, the person
10 is guilty of a misdemeanor punishable by imprisonment for not more
11 than 93 days or a fine of not more than \$500.00 or 3 times the
12 value of the money or property used or obtained or attempted to be
13 used or obtained, whichever is greater, or both imprisonment and a
14 fine.

15 (3) If any of the following apply, the person is guilty of a
16 misdemeanor punishable by imprisonment for not more than 1 year or
17 a fine of not more than \$2,000.00 or 3 times the value of the money
18 or property used or obtained or attempted to be used or obtained,
19 whichever is greater, or both imprisonment and a fine:

20 (a) The money or property used or obtained, or attempted to be
21 used or obtained, has a value of \$200.00 or more but less than
22 \$1,000.00.

23 (b) The person violates subsection (2) and has 1 or more prior
24 convictions for committing or attempting to commit an offense under
25 this section.

26 (4) If any of the following apply, the person is guilty of a
27 felony punishable by imprisonment for not more than 5 years or a
28 fine of not more than \$10,000.00 or 3 times the value of the money
29 or property used or obtained or attempted to be used or obtained,

1 whichever is greater, or both imprisonment and a fine:

2 (a) The money or property used or obtained, or attempted to be
3 used or obtained, has a value of \$1,000.00 or more but less than
4 \$20,000.00.

5 (b) The person violates subsection (3) (a) and has 1 or more
6 prior convictions for committing or attempting to commit an offense
7 under this section. For purposes of this subdivision, however, a
8 prior conviction does not include a conviction for a violation or
9 attempted violation of subsection (2) or (3) (b).

10 (5) If any of the following apply, the person is guilty of a
11 felony punishable by imprisonment for not more than 10 years or a
12 fine of not more than \$15,000.00 or 3 times the value of the money
13 or property used or obtained or attempted to be used or obtained,
14 whichever is greater, or both imprisonment and a fine:

15 (a) The money or property used or obtained, or attempted to be
16 used or obtained, has a value of \$20,000.00 or more but less than
17 \$50,000.00.

18 (b) The person violates subsection (4) (a) and has 2 or more
19 prior convictions for committing or attempting to commit an offense
20 under this section. For purposes of this subdivision, however, a
21 prior conviction does not include a conviction for a violation or
22 attempted violation of subsection (2) or (3) (b).

23 (6) If any of the following apply, the person is guilty of a
24 felony punishable by imprisonment for not more than 15 years or a
25 fine of not more than \$15,000.00 or 3 times the value of the money
26 or property used or obtained or attempted to be used or obtained,
27 whichever is greater, or both imprisonment and a fine:

28 (a) The money or property used or obtained, or attempted to be
29 used or obtained, has a value of \$50,000.00 or more but less than

1 \$100,000.00.

2 (b) The person violates subsection (5) (a) and has 2 or more
3 prior convictions for committing or attempting to commit an offense
4 under this section. For purposes of this subdivision, however, a
5 prior conviction does not include a conviction for a violation or
6 attempted violation of subsection (2) or (3) (b).

7 (7) If any of the following apply, the person is guilty of a
8 felony punishable by imprisonment for not more than 20 years or a
9 fine of not more than \$50,000.00 or 3 times the value of the money
10 or property used or obtained or attempted to be used or obtained,
11 whichever is greater, or both imprisonment and a fine:

12 (a) The money or property used or obtained, or attempted to be
13 used or obtained, has a value of \$100,000.00 or more.

14 (b) The person violates subsection (6) (a) and has 2 or more
15 prior convictions for committing or attempting to commit an offense
16 under this section. For purposes of this subdivision, however, a
17 prior conviction does not include a conviction for a violation or
18 attempted violation of subsection (2) or (3) (b).

19 (8) Except as otherwise provided in this subsection, the
20 values of money or property used or obtained or attempted to be
21 used or obtained in separate incidents pursuant to a scheme or
22 course of conduct within any 12-month period may be aggregated to
23 determine the total value of money or personal property used or
24 obtained or attempted to be used or obtained. If the scheme or
25 course of conduct is directed against only 1 person, no time limit
26 applies to aggregation under this subsection. **If the violation of**
27 **this section was committed against a vulnerable adult while the**
28 **vulnerable adult was alive and was continued subsequent to the**
29 **vulnerable adult's death, the values of money or property used or**

1 obtained or attempted to be used or obtained during the vulnerable
2 adult's life and subsequent to the vulnerable adult's death may be
3 aggregated to determine the total value of money or personal
4 property used or obtained or attempted to be used or obtained.

5 (9) If the prosecuting attorney intends to seek an enhanced
6 sentence based ~~upon~~ on the defendant having 1 or more prior
7 convictions, the prosecuting attorney shall include on the
8 complaint and information a statement listing the prior conviction
9 or convictions. The existence of the defendant's prior conviction
10 or convictions ~~shall~~ must be determined by the court, without a
11 jury, at sentencing or at a separate hearing for that purpose
12 before sentencing. The existence of a prior conviction may be
13 established by any evidence relevant for that purpose, including,
14 but not limited to, 1 or more of the following:

15 (a) A copy of the judgment of conviction.

16 (b) A transcript of a prior trial, plea-taking, or sentencing.

17 (c) Information contained in a presentence report.

18 (d) The defendant's statement.

19 (10) If the sentence for a conviction under this section is
20 enhanced by 1 or more prior convictions, those prior convictions
21 ~~shall~~ must not be used to further enhance the sentence for the
22 conviction under section 10, 11, or 12 of chapter IX of the code of
23 criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

24 (11) A financial institution or a broker or a director,
25 officer, employee, or agent of a financial institution or broker is
26 not in violation of this section while performing duties in the
27 normal course of business of a financial institution or broker or a
28 director, officer, employee, or agent of a financial institution or
29 broker.

1 (12) ~~(13)~~—The court may order a sentence imposed for a
2 violation of subsection (4), (5), (6), or (7) to be served
3 consecutively to any other sentence imposed for a violation of this
4 section.

5 (13) ~~(14)~~—This section does not prohibit a person from being
6 charged with, convicted of, or punished for any other violation of
7 law the person commits while violating this section.

8 (14) ~~(15)~~—As used in this section:

9 (a) "Broker" means that term as defined in section 8102 of the
10 uniform commercial code, 1962 PA 174, MCL 440.8102.

11 (b) "Financial institution" means a bank, credit union, saving
12 bank, or a savings and loan chartered under state or federal law or
13 an affiliate of a bank, credit union, saving bank, or savings and
14 loan chartered under state or federal law.

15 (c) "Vulnerable adult" means that term as defined in section
16 145m, whether or not the individual has been determined by the
17 court to be incapacitated.

18 (15) ~~(16)~~—If the office of services to the aging becomes aware
19 of a violation of this section, the office of services to the aging
20 shall promptly report the violation to the department of **health and**
21 human services.

22 Enacting section 1. This amendatory act takes effect 90 days
23 after the date it is enacted into law.