

SENATE BILL No. 1295

May 7, 2008, Introduced by Senators HUNTER, SCHAUER, JACOBS, WHITMER, SWITALSKI, CLARKE, THOMAS, BRATER, SCOTT, OLSHOVE, CHERRY, BARCIA, ANDERSON, PRUSI, CLARK-COLEMAN and BASHAM and referred to the Committee on Government Operations and Reform.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," by amending sections 145o and 145p (MCL 750.145o and 750.145p), as added by 1994 PA 149.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 145o. An operator of an unlicensed facility that is
2 subject to licensure, or an employee or an individual acting on
3 behalf of an unlicensed facility that is subject to licensure, who
4 violates the adult foster care facility licensing act or part 213,
5 215, or 217 of the public health code or rules promulgated pursuant
6 to ~~to~~ **UNDER** the adult foster care facility licensing act or part 213,
7 215, or 217 of the public health code and whose violation is a
8 proximate cause of the death of a vulnerable adult is guilty of a

1 felony punishable by imprisonment for not more than 5–15 years or a
2 fine of not more than \$75,000.00, or both.

3 Sec. 145p. (1) A caregiver, other person with authority over a
4 vulnerable adult, or a licensee who intentionally does 1 or more of
5 the following is guilty of a misdemeanor punishable by imprisonment
6 for not more than 2 years or a fine of not more than \$25,000.00, or
7 both:

8 (a) Commingles, borrows, or pledges funds of a resident that
9 are required by law or administrative rule to be held in a separate
10 trust account.

11 ~~(b) Interferes with or obstructs an investigation under the~~
12 ~~adult foster care facility licensing act, part 213, 215, or 217 of~~
13 ~~the public health code, or section 11b of the social welfare act,~~
14 ~~being section 400.11b of the Michigan Compiled Laws.~~

15 **(B)** ~~(c)~~ Files information required by the adult foster care
16 facility licensing act or part 213, 215, or 217 of the public
17 health code that is false or misleading.

18 (2) A caregiver, other person with authority over a vulnerable
19 adult, or a licensee who intentionally retaliates or discriminates
20 against a resident because the resident does 1 or more of the
21 following is guilty of a misdemeanor punishable by imprisonment for
22 not more than 2 years or a fine of not more than \$25,000.00, or
23 both:

24 (a) Provides information to a state or local official
25 enforcing the adult foster care facility licensing act or part 213,
26 215, or 217 of the public health code.

27 (b) Makes a complaint against a facility.

1 (c) Initiates, participates in, or testifies in an
2 administrative or criminal action against a facility or a civil
3 suit related to the criminal action.

4 (3) A caregiver, other person with authority over a vulnerable
5 adult, or a licensee who intentionally retaliates or discriminates
6 against an employee because the employee does 1 or more of the
7 following is guilty of a misdemeanor punishable by imprisonment for
8 not more than 1 year or a fine of not more than \$10,000.00, or
9 both:

10 (a) Provides information to a state or local official
11 enforcing the adult foster care facility licensing act or part 213,
12 215, or 217 of the public health code.

13 (b) Makes a complaint against a facility.

14 (c) Initiates, participates in, or testifies in an
15 administrative or criminal action against a facility or a civil
16 suit related to the criminal action.

17 **(4) A CAREGIVER, OTHER PERSON WITH AUTHORITY OVER A VULNERABLE**
18 **ADULT, OR LICENSEE WHO INTENTIONALLY RETALIATES OR DISCRIMINATES**
19 **AGAINST A RESIDENT BECAUSE THE RESIDENT INTERFERES WITH OR**
20 **OBSTRUCTS AN INVESTIGATION UNDER THE ADULT FOSTER CARE FACILITY**
21 **LICENSING ACT OR SECTION 11B OF THE SOCIAL WELFARE ACT, MCL**
22 **400.11B, IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT**
23 **MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.**

24 (5) ~~(4)~~—Subsection (3) does not preclude an employer from
25 taking reasonable and appropriate disciplinary action against an
26 employee.

27 (6) ~~(5)~~—A caregiver, other person with authority over a

1 vulnerable adult, or a licensee who has been convicted of violating
2 this section who commits a second or subsequent violation of this
3 section is guilty of a felony punishable by imprisonment for not
4 more than 5 years or a fine of not more than \$75,000.00, or both.