

# SENATE BILL NO. 924

June 13, 2024, Introduced by Senators HERTEL, KLINEFELT, GEISS, IRWIN and SHINK and referred to the 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  
2 vulnerable adult's life and subsequent to the vulnerable adult's  
3 death may be aggregated to determine the total value of money or  
4 personal property used or obtained or attempted to be used or  
5 obtained.

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

- 16 (a) A copy of the judgment of conviction.  
17 (b) A transcript of a prior trial, plea-taking, or sentencing.  
18 (c) Information contained in a presentence report.  
19 (d) The defendant's statement.

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

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

1 broker.

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

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

9       (14) ~~(15)~~—As used in this section:

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

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

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

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