

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

750.174a Vulnerable adult; prohibited conduct; violation; penalty; enhanced sentence; exceptions; consecutive sentence; definitions; report by office of services to the aging to department of human services.

Sec. 174a.

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

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

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

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

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

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

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

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

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

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

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

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

(a) The money or property used or obtained, or attempted to be used or obtained, has a value of \$50,000.00 or more but less than \$100,000.00.

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

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

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

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

(8) Except as otherwise provided in this subsection, the values of money or property used or obtained or attempted to be used or obtained in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of money or personal property used or obtained or attempted to be used or obtained. If the scheme or course of conduct is directed against only 1 person, no time limit applies to aggregation under this subsection.

(9) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having 1 or more

prior convictions, the prosecuting attorney shall include on the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

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

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

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

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

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

(15) As used in this section:

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

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

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

(16) If the office of services to the aging becomes aware of a violation of this section, the office of services to the aging shall promptly report the violation to the department of human services.

History: Add. 2000, Act 222, Eff. Sept. 25, 2000 ;-- Am. 2004, Act 255, Eff. Sept. 1, 2004 ;-- Am. 2012, Act 172, Imd. Eff. June 19, 2012 ;-- Am. 2013, Act 34, Imd. Eff. May 21, 2013