

750.44 Trick or acrobatic flying.

Sec. 44. An aeronaut or passenger who, while in flight over a thickly inhabited area or over a public gathering engages in trick or acrobatic flying or in any acrobatic feat or, except while in landing or taking off, flies at such a low level as to endanger the persons on the surface beneath, or drop or release any object or thing that may endanger life or injure property except when necessary to the personal safety of the aeronaut or passenger, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.45 Open air assemblies; operation of aircraft; altitude.

Sec. 45. A person who operates an aircraft over open air assemblies of people at a height of less than 1,500 feet from the ground is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00. This section does not apply to groups assembled for the purpose of witnessing aerial exhibitions and stunt flying, nor to groups assembled at a flying field.

750.50c Police dog or police horse; definitions; violation as felony or misdemeanor; penalty; other violations.

Sec. 50c. (1) As used in this section:

(a) “Dog handler” means a peace officer who has successfully completed training in the handling of a police dog pursuant to a policy of the law enforcement agency that employs that peace officer.

(b) “Physical harm” means any injury to a dog’s or horse’s physical condition.

(c) “Police dog” means a dog used by a law enforcement agency of this state or of a local unit of government of this state that is trained for law enforcement work and subject to the control of a dog handler.

(d) “Police horse” means a horse used by a law enforcement agency of this state or of a local unit of government of this state for law enforcement work.

(e) “Serious physical harm” means any injury to a dog’s or horse’s physical condition or welfare that is not necessarily permanent but that constitutes substantial body disfigurement, or that seriously impairs the function of a body organ or limb.

(2) A person shall not intentionally kill or cause serious physical harm to a police dog or police horse.

(3) A person shall not intentionally cause physical harm to a police dog or police horse.

(4) A person shall not intentionally harass or interfere with a police dog or police horse lawfully performing its duties.

(5) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(6) Except as provided in subsection (7), a person who violates subsection (3) or (4) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(7) A person who violates subsection (3) or (4) while committing a crime is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$1,500.00, or both.

(8) This section does not prohibit an individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

750.57 Burial of dead animals.

Sec. 57. A person who places a dead animal or part of the carcass of a dead animal into a lake, river, creek, pond, road, street, alley, lane, lot, field, meadow, or common, or in any place within 1 mile of the residence of a person, except the same and every part of the carcass is buried at least 4 feet underground, and the owner or owners thereof who knowingly permits the carcass or part of a carcass to remain in any of those places, to the injury of the health, or to the annoyance of another is guilty of a misdemeanor. Every 24 hours that the owner permits the carcass or part of a carcass to remain after a conviction under this section is an additional offense under this section, a misdemeanor punishable by a fine of not less than \$50.00 or more than \$500.00 or by imprisonment for not more than 90 days.

750.60 Horses' tails; docking.

Sec. 60. (1) A person who cuts the bone of the tail of a horse for the purpose of docking the tail, or who causes or knowingly permits the cutting to be done upon the premises of which he or she is the owner, lessee, proprietor, or user, or who assists in or is present at such cutting, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00. However, this subsection does not apply to the cutting of the bone of the tail of a horse for the purpose of docking the tail when a certificate of a regularly qualified veterinary surgeon is first obtained certifying that the cutting is necessary for the health or safety of the horse.

(2) If a horse is found with its tail cut and with the wound resulting from the cutting unhealed, upon the premises of any person, those facts shall be prima facie evidence that the person occupying or using the premises on which that horse is found has committed the offense described in subsection (1).

(3) If a horse is found with its tail cut and with the wound resulting therefrom unhealed, in the charge or custody of any person, that fact shall be prima facie evidence that the person having the charge or custody of that horse has committed the offense charged in subsection (1).

750.64 Docked horses; failure to register.

Sec. 64. A person who violates a provision of this chapter by failing to register a docked horse as herein provided is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.90c Gross negligence against pregnant individual as crime.

Sec. 90c. A person who commits a grossly negligent act against a pregnant individual is guilty of a crime as follows:

(a) If the act results in a miscarriage or stillbirth by that individual or death to the embryo or fetus, a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$7,500.00, or both.

(b) If the act results in great bodily harm to the embryo or fetus, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(c) If the act results in serious or aggravated physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$500.00, or both.

(d) If the act results in physical injury to the embryo or fetus, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

750.113 Coin or depository box; opening or attempt to open.

Sec. 113. A person who maliciously and willfully, by and with the aid and use of any key, instrument, device, or explosive, blows or attempts to blow, or forces or attempts to force an entrance into any coin box, depository box, or other receptacle established and maintained for the convenience of the public, or of any person or persons, in making payment for any article of merchandise or service, wherein is contained any money or thing of value, or extracts or obtains, or attempts to extract or obtain, therefrom any such money or thing of value so deposited or contained therein, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.114 Breaking and entering; outside showcase or counter.

Sec. 114. A person who shall break and enter, or enter without breaking, at any time, any outside showcase or other outside enclosed counter used for the display of goods, wares, or merchandise, with intent to commit the crime of larceny, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.123 Officer omitting duty for reward.

Sec. 123. A sheriff, coroner, constable, peace officer, or any other officer authorized to serve process or arrest or apprehend offenders against criminal law who shall receive from a defendant or from any other person any money or other valuable thing or any service or promise to pay or give money or to perform or omit to perform any act as a consideration, reward, or inducement, for omitting or delaying to arrest any defendant, or to carry him or her before a magistrate, or for delaying to take any person to prison, or for postponing the sale of any property under an execution, or for omitting or delaying to perform any duty pertaining to his or her office, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00. However, if that defendant is charged with an offense against the criminal laws of this state, an officer convicted under this section may be punished by any fine or by any term of imprisonment or both a fine and imprisonment, within the limits fixed by the statute that the defendant is charged with having violated.

750.125 Giving, offering, or promising commission, gift, or gratuity to agent, employee, or other person with intent to influence action of agent or employee; requesting or accepting commission, gift, or gratuity; using or giving document containing materially false, erroneous, or defective statement; evidence; use of truthful testimony, evidence, or other information against witness in criminal case; violation as misdemeanor.

Sec. 125. (1) A person shall not give, offer, or promise a commission, gift, or gratuity to an agent, employee, or other person or do or offer to do an act beneficial to an agent, employee, or other person with intent to influence the action of the agent or employee in relation to his or her principal's or employer's business.

(2) An agent or employee shall not request or accept a commission, gift, or gratuity, or a promise of a commission, gift, or gratuity, for the agent, employee, or another person or the doing of an act or offer of an act beneficial to the agent, employee, or another person according to an agreement or understanding between the agent or employee and any other person that the agent or employee shall act in a particular manner in relation to his or her principal's or employer's business.

(3) A person shall not use or give to an agent, employee, or other person, and an agent or employee shall not use, approve, or certify, with intent to deceive the principal or employer, a receipt, account, invoice, or other document concerning which the principal or

employer is interested that contains a statement that is materially false, erroneous, or defective or omits to state fully any commission, money, property, or other valuable thing given or agreed to be given to the agent or employee.

(4) Evidence is not admissible in any proceeding or prosecution under this section to show that a gift or acceptance of a commission, money, property, or other valuable thing described in this section is customary in a business, trade, or calling. The customary nature of a transaction is not a defense in a proceeding or prosecution under this section.

(5) In a proceeding or prosecution under this section, a person shall not be excused from attending and testifying or from producing documentary evidence pursuant to a subpoena on the ground that the testimony or evidence may tend to incriminate him or her or subject him or her to a penalty or forfeiture. Truthful testimony, evidence, or other truthful information compelled under this section and any information derived directly or indirectly from that truthful testimony, evidence, or other truthful information shall not be used against the witness in a criminal case, except for impeachment purposes or in a prosecution for perjury or otherwise failing to testify or produce evidence as required.

(6) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

750.138 Children; legal custody; interference.

Sec. 138. A person who in any manner interferes or attempts to interfere with the custody of any child who has been adjudged to be dependent, neglected, or delinquent pursuant to chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, after the making of an order of commitment to a state institution or otherwise, in accordance with that act and pending the actual admission and reception of the child as an inmate of the institution, school, or home to which commitment is made; and any person who entices the neglected, dependent, or delinquent child from and out of the custody of the person or persons entitled thereto under the order of the court or who shall in any way interfere or attempt to interfere with the custody; and a person who entices or procures the child committed as aforesaid to leave and depart from any hospital or other place where the child was placed pursuant to the order of the court for the purpose of receiving medical treatment pending admission into the state institution, school, home, or other institution or place to which commitment may have been made, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.140 Children; exhibition; employ; apprentice.

Sec. 140. Any person having the care, custody, or control of any child under 16 years of age, who shall exhibit, use, or employ, or who shall apprentice, give away, let out, or otherwise dispose of the child to any person in or for the vocation, service, or occupation of rope or wire walking, gymnast, contortionist, rider, or acrobat, dancing, or begging in any place whatsoever, or for any obscene, indecent, or immoral purpose, exhibition, or practice whatsoever, or for any exhibition injurious to the health or dangerous to the life or limb of the child, or who shall cause, procure, or encourage the child to engage therein, and any person who shall take, receive, hire, employ, use, exhibit, or have in custody any child for any of the purposes mentioned in this section, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.149 Compounding or concealing offense; penalty.

Sec. 149. Any person having knowledge of the commission of any offense punishable with death, or by imprisonment in the state prison, who shall take any money, or any gratuity or reward, or any engagement therefor, upon an agreement or understanding,

express or implied, to compound or conceal such offense, or not to prosecute therefor, or not to give evidence thereof, shall, when such offense of which he or she has knowledge was punishable with death, or imprisonment in the state prison for life, is guilty of a felony; and where the offense, of which he or she so had knowledge, was punishable in any other manner, he or she is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.150 Issue; concealment of death by mother.

Sec. 150. If any unmarried woman conceals the death of any issue of her body, so that it may not be known whether such issue was born alive or not, or whether it was not murdered, she shall be punished by a fine not exceeding \$1,000.00 or imprisonment for not more than 1 year.

750.151 Contracts; conspiracy; penalty.

Sec. 151. All contracts, agreements, understandings, and combinations made, entered into, or knowingly assented to, by and between any parties capable of making a contract or agreement which would be valid at law or in equity, the purpose or object or intent of which shall be to limit, control, or in any manner to restrict or regulate the amount of production or the quantity of any article or commodity to be raised, or produced by mining, manufacture, agriculture, or any other branch of business or labor, or to enhance, control or regulate the market price thereof, or in any manner to prevent or restrict free competition in the production or sale of any such article or commodity, shall be illegal and void, and every such contract, agreement, understanding, and combination shall constitute a criminal conspiracy. And every person who, for himself or herself personally, or as a member, or in the name of a partnership, or as a member, agent, or officer of a corporation, or of any association for business purposes of any kind, who shall enter into or knowingly consent to any such void and illegal contract, agreement, understanding, or combination, shall be deemed a party to such conspiracy.

All parties so offending shall be guilty of a misdemeanor punishable by imprisonment in the county jail for not more than 6 months or a fine of not more than \$750.00. And the prosecution for offenses under this section may be instituted and the trial had in any county where any of the conspirators become parties to such conspiracy, or in which any 1 of the conspirators shall reside. This section shall in no manner invalidate or affect contracts for what is known and recognized as common law and in equity as contracts for the "good will of a trade or business"; but all such contracts shall be left to stand upon the same terms and within the same limitations recognized at common law and in equity.

750.153 Illegal contracts; carrying into effect.

Sec. 153. The carrying into effect, in whole or in part, of any such illegal contract, agreement, understanding, or combination as mentioned in the first section of this chapter and every act that shall be done for that purpose by any of the parties or through their agency or the agency of any 1 of them, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.172 Accepting challenge and abetting duel.

Sec. 172. Any person who shall accept any challenge, or who shall knowingly carry or deliver any challenge or message, whether a duel ensue or not, and every person who shall be present at the fighting of a duel with deadly weapons as an aid or second, or surgeon, or who shall advise, encourage, or promote such duel, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 and is also disqualified as mentioned in the preceding section.

750.173 Posting for not accepting challenge to duel.

Sec. 173. Any person who shall post or advertise another, or in writing or print, use any reproachful or contemptuous language, to or concerning another, for not fighting a duel, or for not sending or accepting a challenge, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.183 Facilitating escape of or assisting prisoners; penalty.

Sec. 183. Any person who conveys into any jail, prison, or other like place of confinement, any disguise or any instrument, tool, weapon, or other thing, adapted or useful to aid any prisoner in making his or her escape, with intent to facilitate the escape of any prisoner there lawfully committed or detained, or shall by any means whatever, aid or assist any prisoner in his or her endeavor to escape therefrom, whether such escape be effected or attempted, or not, and every person who shall forcibly rescue any prisoner, held in custody upon any conviction or charge of an offense, is guilty of a felony punishable by imprisonment in the state prison not more than 7 years; or, if the person whose escape or rescue was effected or intended, was charged with an offense not capital, nor punishable by imprisonment in the state prison, then the offense mentioned in this section shall be a misdemeanor and shall be punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.184 Aiding escape from officer; penalty.

Sec. 184. Any person who shall aid or assist any prisoner in escaping or attempting to escape from any officer or person who shall have the lawful custody of such prisoner is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.191 Refusing, omitting, and delaying to serve process.

Sec. 191. Any officer authorized to serve process, who willfully and corruptly refuses to execute any lawful process to him or her directed, and requiring him or her to apprehend or confine any person convicted or charged with an offense, or who willfully and corruptly omits or delays to execute such process, whereby such person shall escape and go at large, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.192 Prisoners of Wisconsin being transported.

Sec. 192. It shall be lawful for any sheriff, coroner, constable, or other officer of the state of Wisconsin or other person lawfully authorized under the laws of the state of Wisconsin to act as any such officer, having in his or her lawful custody any person or persons, arrested in the state of Wisconsin, under a criminal warrant or process, or under any writ, order, or process in a civil action or proceeding, issued out of or by any court of said state of Wisconsin, or by any officer of said state of Wisconsin, authorized to issue such warrant, writ, process, or order, to convey or transport the prisoner through any portion of the state of Michigan, whenever it shall be necessary or convenient so to do in order to bring the prisoner before any such court or officer of the state of Wisconsin, or to deliver the prisoner to any jailor, or commit the prisoner to any prison of said state of Wisconsin, for any lawful purpose whatsoever. Any such officer of the state of Wisconsin, while in the state of Michigan with any prisoner or prisoners in the officer's custody for the purposes aforesaid, has all the rights and powers in relation to such prisoner or prisoners as would a sheriff of this state.

An officer of this state shall not discharge any such prisoner from custody under writ of habeas corpus or other proceeding brought for that purpose, when it shall be made to appear that the prisoner is in custody as in the preceding paragraph stated. And it shall be a sufficient answer to said writ of habeas corpus or other proceeding, by the officer or person having such custody, that he or she holds the prisoner by virtue of a lawful warrant, writ, process, or order as in the preceding paragraph stated, and he or she shall annex to the answer a copy of the warrant, writ, process, or order under which he or she claims custody of the prisoner.

Any person who shall in any manner aid or assist a prisoner so being conveyed or transported through this state to escape from the officer or person having the prisoner so in lawful custody, or who resists the officer or person while engaged in conveying or transporting the prisoner through this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.197a Breaking or escaping from lawful custody under criminal process.

Sec. 197a. A person who breaks or escapes from lawful custody under any criminal process, including periods while at large on bail, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.215 Falsely assuming or pretending to be sheriff, conservation officer, coroner, constable, or police officer; misdemeanor; penalty.

Sec. 215. Any person who falsely assumes or pretends to be a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, and shall take upon himself or herself to act as such, or to require any person to aid and assist him or her in any matter pertaining to the duty of a sheriff, deputy sheriff, conservation officer, coroner, constable, police officer, or member of the Michigan state police, or shall falsely take upon himself or herself to act or officiate in any office or place of authority, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.217 Disguising with intent to intimidate.

Sec. 217. Any person who in any manner disguises himself or herself with intent to obstruct the due execution of the law, or with intent to intimidate, hinder or interrupt any officer or any other person in the legal performance of his or her duty, or the exercise of his or her rights under the constitution and laws of this state, whether such intent be effected or not, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.217c Legal process; impersonation, false representation, or action as public officer or employee; definitions.

Sec. 217c. (1) A person shall not impersonate, falsely represent himself or herself as, or falsely act as a public officer or public employee and prepare, issue, serve, execute, or otherwise act to further the operation of any legal process or unauthorized process that affects or purports to affect persons or property.

(2) Except as provided in subsection (3) or (4), a person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) A person who violates subsection (1) after a prior conviction for violating subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$1,500.00, or both.

(4) A person who violates subsection (1) after 2 or more prior convictions for violating subsection (1) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(5) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(6) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(7) As used in this section:

(a) “Lawful tribunal” means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) “Legal process” means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) “Public officer” means a person who is elected or appointed to any of the following:

(i) An office established by the state constitution of 1963.

(ii) A public office of a city, village, township, or county in this state.

(iii) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) “Unauthorized process” means either of the following:

(i) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(ii) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law.

750.219 Financial condition; false statements.

Sec. 219. Any person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, who, either individually or in a representative capacity, does 1 or more of the following:

(a) Knowingly makes a false statement in writing to any person, firm or corporation engaged in banking or other business respecting his or her own financial condition or the

financial condition of any firm or corporation with which he or she is connected as a member, director, officer, employee, or agent, for the purpose of procuring a loan or credit in any form or an extension of credit from the person, firm or corporation to whom the false statement is made, either for his or her own use or for the use of the firm or corporation with which he or she is connected as aforesaid.

(b) Having previously made, or having knowledge that another has previously made a statement in writing to any person, firm, or corporation engaged in banking or other business respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards procure on faith of such statement from the person, firm, or corporation to whom the previous statement has been made, either for his or her own use or for the use of the firm or corporation with which he or she is so connected, a loan or credit in any form, or an extension of credit, knowing at the time of the procuring that the previously made statement is in any material particular false with respect to the present financial condition of himself or herself or of the firm or corporation with which he or she is so connected.

(c) Delivers to any note broker or other agent for the sale or negotiation of commercial paper, any statement in writing, knowing it to be false, respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, for the purpose of having the statement used in furtherance of the sale, pledge, or negotiation of any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by him or her individually or by the firm or corporation with which he or she is so connected.

(d) Having previously delivered or having knowledge that another has previously delivered to any note broker or other agent for the sale or negotiation of commercial paper a statement in writing respecting his or her own financial condition or the financial condition of any firm or corporation with which he or she is connected as aforesaid, shall afterwards deliver to the note broker or other agent for the purpose of sale, pledge, or negotiation on faith of the statement, any note, bill, or other instrument for the payment of money made or endorsed or accepted or owned in whole or in part by himself or herself individually or by the firm or corporation with which he or she is so connected, knowing at the time that such previously delivered statement is in any material particular false as to the present financial condition of himself or herself or of such firm or corporation.

750.219a Obtaining telecommunications services with intent to avoid charge; violation; separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions; definitions.

Sec. 219a. (1) A person shall not knowingly obtain or attempt to obtain telecommunications service with intent to avoid, attempt to avoid, or cause another person to avoid or attempt to avoid any lawful charge for that telecommunications service by using any of the following:

- (a) A telecommunications access device.
- (b) An unlawful telecommunications access device.
- (c) A fraudulent or deceptive scheme, pretense, method, or conspiracy, or any device or other means, including, but not limited to, any of the following:
 - (i) Using a false, altered, or stolen identification.
 - (ii) The use of a telecommunications access device to violate this section by a person other than the subscriber or lawful holder of the telecommunications access device under

an exchange of anything of value to the subscriber or lawful holder to allow that unlawful use of the telecommunications access device.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) If the total value of the telecommunications service obtained or attempted to be obtained is 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 total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine.

(b) 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 total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service obtained or attempted to be obtained is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or former section 219c or a local ordinance substantially corresponding to this section or former section 219c.

(c) 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 total value of the telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service obtained or attempted to be obtained is \$1,000.00 or more but less than \$20,000.00.

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

(d) 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 telecommunications service obtained or attempted to be obtained, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service obtained or attempted to be obtained is \$20,000.00 or more.

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

(3) The values of telecommunications service obtained or attempted to be 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 the telecommunications service obtained or attempted to be obtained.

(4) 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.

(5) 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 pursuant to 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.

(6) As used in this section:

(a) "Telecommunications" and "telecommunications service" mean any service lawfully provided for a charge or compensation to facilitate the origination, transmission, retransmission, emission, or reception of signs, data, images, signals, writings, sounds, or other intelligence or equivalence of intelligence of any nature over any telecommunications system by any method, including, but not limited to, electronic, electromagnetic, magnetic, optical, photo-optical, digital, or analog technologies.

(b) "Telecommunications access device" means any of the following:

(i) Any instrument, device, card, plate, code, telephone number, account number, personal identification number, electronic serial number, mobile identification number, counterfeit number, or financial transaction device as defined in section 157m that alone or with another device can acquire, transmit, intercept, provide, receive, use, or otherwise facilitate the use, acquisition, interception, provision, reception, and transmission of any telecommunications service.

(ii) Any type of instrument, device, machine, equipment, technology, or software that facilitates telecommunications or which is capable of transmitting, acquiring, intercepting, decrypting, or receiving any telephonic, electronic, data, internet access, audio, video, microwave, or radio transmissions, signals, telecommunications, or services, including the receipt, acquisition, interception, transmission, retransmission, or decryption of all telecommunications, transmissions, signals, or services provided by or through any cable television, fiber optic, telephone, satellite, microwave, data transmission, radio, internet based or wireless distribution network, system, or facility, or any part, accessory, or component, including any computer circuit, security module, smart card, software, computer chip, pager, cellular telephone, personal communications device, transponder, receiver, modem, electronic mechanism or other component, accessory, or part of any other device that is capable of facilitating the interception, transmission, retransmission, decryption, acquisition, or reception of any telecommunications, transmissions, signals, or services.

(c) "Telecommunications service provider" means any of the following:

(i) A person or entity providing a telecommunications service, whether directly or indirectly as a reseller, including, but not limited to, a cellular, paging, or other wireless communications company or other person or entity which, for a fee, supplies the facility, cell site, mobile telephone switching office, or other equipment or telecommunications service.

(ii) A person or entity owning or operating any fiber optic, cable television, satellite, internet based, telephone, wireless, microwave, data transmission or radio distribution system, network, or facility.

(iii) A person or entity providing any telecommunications service directly or indirectly by or through any distribution systems, networks, or facilities.

(d) “Telecommunications system” means any system, network, or facility owned or operated by a telecommunications service provider, including any radio, telephone, fiber optic, cable television, satellite, microwave, data transmission, wireless, or internet based system, network, or facility.

(e) “Unlawful telecommunications access device” means any of the following:

(i) A telecommunications access device that is false, fraudulent, unlawful, not issued to a legitimate telecommunications access device subscriber account, or otherwise invalid or that is expired, suspended, revoked, canceled, or otherwise terminated if notice of the expiration, suspension, revocation, cancellation, or termination has been sent to the telecommunications access device subscriber.

(ii) Any phones altered to obtain service without the express authority or actual consent of the telecommunications service provider, a clone telephone, clone microchip, tumbler telephone, tumbler microchip, or wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use, acquisition, interception, or receipt of a telecommunications service without the express authority or actual consent of the telecommunications service provider.

(iii) Any telecommunications access device that has been manufactured, assembled, altered, designed, modified, programmed, or reprogrammed, alone or in conjunction with another device, so as to be capable of facilitating the disruption, acquisition, interception, receipt, transmission, retransmission, or decryption of a telecommunications service without the actual consent or express authorization of the telecommunications service provider, including, but not limited to, any device, technology, product, service, equipment, computer software, or component or part, primarily distributed, sold, designed, assembled, manufactured, modified, programmed, reprogrammed, or used for the purpose of providing the unauthorized receipt of, transmission of, interception of, disruption of, decryption of, access to, or acquisition of any telecommunications service provided by any telecommunications service provider.

(iv) Any type of instrument, device, machine, equipment, technology, or software that is primarily designed, assembled, developed, manufactured, sold, distributed, possessed, used, or offered, promoted, or advertised, for the purpose of defeating or circumventing any technology, device, or software, or any component or part, used by the provider, owner, or licensee of any telecommunications service or of any data, audio, or video programs or transmissions, to protect any such telecommunications, data, audio, or video services, programs, or transmissions from unauthorized receipt, acquisition, interception, access, decryption, disclosure, communication, transmission, or retransmission.

(f) “Value of the telecommunications service obtained or attempted to be obtained” includes, but is not limited to, all of the following:

(i) Any lawful charge for telecommunications services avoided or attempted to be avoided.

(ii) The value of any other money, property, or telecommunications service lost, stolen, or rendered unrecoverable by the violation.

(iii) Any actual expenditure incurred by the victim to verify that a telecommunications device or telecommunications access device or telecommunications service was not altered, acquired, damaged, disrupted, destroyed, or stolen as a result of the violation.

(iv) The value of all telecommunications services available to the violator and others as a result of the violation.

750.220 Property valuation or indebtedness; false statements.

Sec. 220. Any person who willfully and knowingly makes any false statement in writing of his or her property valuation, real or personal, or both, or of his or her indebtedness, for the purpose of obtaining credit from any person, company, co-partnership, association, or corporation, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.240 False alarm of fire.

Sec. 240. Any person who knowingly and willfully commits 1 or more of the following actions is guilty of a misdemeanor punishable by imprisonment for not more than 1 year and a fine of not more than \$1,000.00:

- (a) Raise a false alarm of fire at any gathering or in any public place.
- (b) Ring any bell or operate any mechanical apparatus, electrical apparatus or combination thereof, for the purpose of creating a false alarm of fire.
- (c) Raise a false alarm of fire orally, by telephone or in person.

750.263 Counterfeit marks.

Sec. 263. (1) A person who willfully counterfeits an identifying mark with intent to deceive or defraud another person or to represent an item of property or service as bearing or identified by an authorized identifying mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) Except as provided in subsection (3), a person who willfully delivers, offers to deliver, uses, displays, advertises, or possesses with intent to deliver any item of property or services bearing, or identified by a counterfeit mark, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(3) A person who violates subsection (2) is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine, if any of the following apply:

(a) The person has a prior conviction under this section, section 264 or 265a, or former section 265 or a law of the United States or another state substantially corresponding to this section, section 264 or 265a, or former section 265.

(b) The violation involved more than 100 items of property.

(c) The aggregate value of the violation is more than \$1,000.00.

(4) A person who willfully manufactures or produces an item of property bearing or identified by a counterfeit mark is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$50,000.00 or 3 times the aggregate value of the violation, whichever is greater, or both imprisonment and a fine.

(5) Willful possession of more than 25 items of property bearing or identified by a counterfeit mark gives rise to a rebuttable presumption that the person possessed those items with intent to deliver them in violation of subsection (2).

(6) Any item of property bearing a counterfeit mark shall be seized under warrant or incident to a lawful arrest. An item of property that bears a counterfeit mark is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709. Upon determination that

an item of property bears a counterfeit mark, the court shall order the item forfeited and shall do 1 of the following:

(a) If the owner of the identifying mark requests, return the item to that owner for destruction or another disposition or use approved by the court.

(b) In the absence of a request under subdivision (a), order the seizing law enforcement agency to destroy the item as contraband or order an alternative disposition or use with the consent of the owner of the identifying mark.

(7) As used in this section and section 264:

(a) “Aggregate value of the violation” means the total value of all items of property or services bearing or identified by a counterfeit mark and involved in the violation, determined using the defendant’s regular or intended selling price for each item or service or, if an item of property is intended as a component of a finished product, the defendant’s regular or intended selling price of the finished product in which the component would be used.

(b) “Counterfeit mark” means either of the following:

(i) A copy or imitation of an identifying mark without authorization by the identifying mark’s owner.

(ii) An identifying mark affixed to an item of property or identifying services without authorization by the identifying mark’s owner.

(c) “Deliver” means to actually or constructively transfer or attempt to transfer an item of property from 1 person to another, regardless of whether there is an agency relationship.

(d) “Identifying mark” means a trademark, service mark, trade name, name, label, device, design, symbol, or word, in any combination, lawfully adopted or used by a person to identify items of property manufactured, sold, or licensed by the person or services performed by the person.

(e) “Person” means an individual, partnership, corporation, limited liability company, association, union, or other legal entity. For purposes of ownership of an identifying mark, person includes a governmental entity.

750.264 Possession of counterfeit mark, die, plate, engraving, template, pattern, or material; violation as misdemeanor; penalty.

Sec. 264. A person who possesses a counterfeit mark with intent to use or deliver it, who possesses a die, plate, engraving, template, pattern, or material with intent to create a counterfeit mark, or who possesses an identifying mark without authorization of the identifying mark’s owner and with intent to create a counterfeit mark is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

750.287 Sterling or sterling silver marked articles; fraud in sale.

Sec. 287. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words “sterling” or “sterling silver”, or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed, or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is silver, sterling silver, or solid silver, unless 925/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.288 Coin or coin silver; fraud in sale of articles marked.

Sec. 288. Any person who knowingly makes or sells, or offers to sell or dispose of, or has in his or her possession with intent to sell or dispose of, any article of merchandise marked, stamped, or branded with the words “coin”, or “coin silver”, or encased or enclosed in any box, package, cover, or wrapper, or other thing in or by which the article is packed, enclosed or otherwise prepared for sale or disposition, having on it an engraving or printed label, stamp, imprint, mark, or trademark, indicating or denoting by the marking, stamping, branding, engraving, or printing, that the article is coin or coin silver, unless 900/1000 of the component parts of the metal of which the article is manufactured are pure silver, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.294 Animals; fraudulent registration as pure-bred.

Sec. 294. Any person who by fraud or misrepresentation obtains or attempts to obtain the registration of animals as pure-bred upon the herd books of any of the recognized registry associations, when such animals are not entitled to that registration, or who by fraud or misrepresentation obtains or attempts to obtain any false record of the transfer of ownership of the registered animals, or who designedly makes any false statements in reference to the breeding, ownership, color, markings, or registration of animals or in reference to any application for the registration or transfer of animals, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.295 Milk and butter fat production; fraudulent practices.

Sec. 295. Any person who connives at, commits, or attempts to commit any fraudulent or dishonest practice in connection with the making of official or semiofficial records of milk and butter fat production of cows, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.298 Medicine; practicing under false or assumed name.

Sec. 298. Any person who practices medicine or advertises to practice medicine under a false or assumed name, or under a name other than his or her own, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.301 Accepting money or valuable thing contingent on uncertain event.

Sec. 301. Any person or his or her agent or employee who, directly or indirectly, takes, receives, or accepts from any person any money or valuable thing with the agreement, understanding or allegation that any money or valuable thing will be paid or delivered to any person where the payment or delivery is alleged to be or will be contingent upon the result of any race, contest, or game or upon the happening of any event not known by the parties to be certain, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.302 Keeping or occupying common gambling house or building or place where gaming permitted; apparatus used for gaming or gambling; manufacture or possession of gaming or gambling apparatus for sale.

Sec. 302. (1) Except as provided in subsection (2), any person, or his or her agent or employee who, directly or indirectly, keeps, occupies, or assists in keeping or occupying any common gambling house or any building or place where gaming is permitted or

suffered or who suffers or permits on any premises owned, occupied, or controlled by him or her any apparatus used for gaming or gambling or who shall use such apparatus for gaming or gambling in any place within this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

(2) This section does not prohibit the manufacture of gaming or gambling apparatus or the possession of gaming or gambling apparatus by the manufacturer of the apparatus solely for sale outside of this state, or for sale to a gambling establishment operating within this state in compliance with the laws of this state, if applicable, and in compliance with the laws of the United States, provided the manufacturer meets or exceeds federal government requirements in regard to manufacture, storage, and transportation.

750.304 Selling pools and registering bets.

Sec. 304. Any person or his or her agent or employee who, directly or indirectly, keeps, maintains, operates, or occupies any building or room or any part of a building or room or any place with apparatus, books, or any device for registering bets or buying or selling pools upon the result of a trial or contest of skill, speed or endurance or upon the result of a game, competition, political nomination, appointment, or election or any purported event of like character or who registers bets or buys or sells pools, or who is concerned in buying or selling pools or who knowingly permits any grounds or premises, owned, occupied, or controlled by him or her to be used for any of the purposes aforesaid, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.305 Publication or distribution of betting odds; penalty.

Sec. 305. (1) Any person, or his or her agent or employee who, directly or indirectly, by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, writes, prints, publishes, advertises, delivers, or distributes or offers to deliver or distribute to the public or to any part thereof or to any person, any statement or information concerning the making or laying of wagers or bets or the selling of pools or evidences of betting odds on any contest or game or on the happening of any event not known by the parties to be certain, or any purported event of like character, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

(2) The acts prohibited in subsection (1) constitute violations of subsection (1) when committed before any game, contest, or event. The possession of evidence for the publication of any statement or information concerning the making or laying of wagers or bets or the selling of pools or betting odds also constitutes a violation of subsection (1) when possessed for publication before the act evidenced thereby.

750.306 Pool tickets; declaration as nuisance.

Sec. 306. (1) All policy or pool tickets, slips or checks, memoranda of any combination, or other bet, manifold, or other policy or pool books or sheets are hereby declared a common nuisance and the possession of 1 or more of those items is a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

(2) The possession of articles listed in subsection (1), or of any other implements, apparatus, or materials of any other form of gaming, is prima facie evidence of their use, by the person having them in possession, in the form of gaming in which like articles are commonly used. And such article found upon the person of one lawfully arrested for violation of any law relative to lotteries, policy lotteries or policy, the buying or selling of pools or registering of bets or other form of gaming is competent evidence upon the trial of an indictment to which it may be relevant.

750.314 Winning at gambling.

Sec. 314. Any person who by playing at cards, dice, or any other game, or by betting or putting up money on cards, or by any other means or device in the nature of betting on cards, or betting of any kind, wins or obtains any sum of money or any goods, or any article of value whatever, is guilty of a misdemeanor if the money, goods, or articles so won or obtained are of the value of not more than \$50.00. If the money, goods, or articles so won or obtained are of the value of more than \$50.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.330 Betting odds; publishing and selling.

Sec. 330. Any person, firm, or corporation, who by means of any newspaper, periodical, poster, notice, or other mode of publication or reproduction, publishes or sells reports of betting odds on horse races wherever conducted is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

This section does not apply to trotting or pacing races permitted to be held in this state, nor to races conducted at state or county fairs or other fairs conducted by agricultural societies; nor as prohibiting the publication of matters pertaining to pedigrees, entries or results of races excepted by this section, or programs for the use solely of spectators at races nor to any publication designed solely for the benefit of breeders or purchasers of stock.

750.331 Racing; definition, penalty.

Sec. 331. All running, trotting, or pacing of horses, or any other animals, for any bet or stakes, in money, goods, or other valuable thing, excepting such as are by special laws for that purpose expressly allowed, constitute racing within the meaning of this section, and are hereby declared to be common and public nuisances and all parties concerned therein, either as authors, betters, stakers, stake-holders, judges to determine the speed of animals, riders, contrivers, or abettors thereof, are guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00. However, this section does not apply to the giving of premiums by agricultural and other societies and associations for the running and trotting of horses at fairs or regularly appointed meetings.

Every person who contributes or collects any money, goods, or things in action, for the purpose of making up a purse, plate, or other valuable thing, to be raced for by any animal, contrary to law, is guilty of a misdemeanor.

750.335 Lewd and lascivious cohabitation and gross lewdness.

Sec. 335. Any man or woman, not being married to each other, who lewdly and lasciviously associates and cohabits together, and any man or woman, married or unmarried, who is guilty of open and gross lewdness and lascivious behavior, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$1,000.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

750.335a Indecent exposure.

Sec. 335a. Any person who shall knowingly make any open or indecent exposure of his or her person or of the person of another is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than \$1,000.00, or if such person was at the time of the said offense a sexually delinquent person, may be punishable

by imprisonment for an indeterminate term, the minimum of which shall be 1 day and the maximum of which shall be life: Provided, That any other provision of any other statute notwithstanding, said offense shall be triable only in a court of record.

750.354 Insurance with particular company.

Sec. 354. (1) A person doing business in this state or for any of the agents of such person shall not require any of the employees of the person to take out or obtain a life, accident, or life and accident policy in favor of the employee or other person in any particular or designated life, accident, or life and accident company or association.

All contracts hereinafter made between any person and any employee of the person requiring or stipulating that the employee so contracting shall procure, obtain, or have a policy of insurance in any particular or designated company or association are void.

(2) Subsection (1) does not proscribe the employers of labor and the persons employed from voluntarily making agreements with each other for contributions of money by the latter to any fund to be accumulated in their behalf and for their benefit in common with others, and in such case from further agreeing that the employer may deduct from their wages, from time to time, the sums due from them under such agreement.

(3) Any person who violates the provisions of this section is guilty of a misdemeanor, and where such person is a company or corporation, it shall be punished by a fine of not more than \$200.00 for each and every offense, and any shareholder, officer, or agent of any such company or corporation violating the provisions of this section shall be punished by imprisonment for not more than 90 days or a fine of not more than \$500.00 for each offense.

750.359 Larceny from vacant dwelling.

Sec. 359. Any person or persons who shall steal or unlawfully remove or in any manner damage any fixture, attachment, or other property belonging to, connected with, or used in the construction of any vacant structure or building, whether built or in the process of construction or who shall break into any vacant structure or building with the intention of unlawfully removing, taking therefrom, or in any manner damaging any fixture, attachment, or other property belonging to, connected with, or used in the construction of such vacant structure or building whether built or in the process of construction, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.368 Simulating legal process.

Sec. 368. (1) A person or agent of a person shall not by personal service, mail, or otherwise serve or cause to be served upon a debtor a notice or demand of payment of money on behalf of a creditor that is not authorized by a statute or court of this state and that simulates in form and substance legal process issued out of a court of this state.

(2) A person shall not prepare, issue, serve, execute, or otherwise act to further the operation of any unauthorized process.

(3) Except as provided in subsection (4) or (5), a person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(4) A person who violates subsection (2) after a prior conviction for violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(5) A person who violates subsection (2) after 2 or more prior convictions for violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(6) This section does not apply to a lien authorized under a statute of this state.

(7) This section does not prohibit a person from being charged with, convicted of, or sentenced for any other violation of law that individual commits while violating this section.

(8) This section does not prohibit individuals from assembling lawfully or lawful free expression of opinions or designation of group affiliation or association.

(9) As used in this section:

(a) “Lawful tribunal” means a tribunal created, established, authorized, or sanctioned by law or a tribunal of a private organization, association, or entity to the extent that the organization, association, or entity seeks in a lawful manner to affect only the rights or property of persons who are members or associates of that organization, association, or entity.

(b) “Legal process” means a summons, complaint, pleading, writ, warrant, injunction, notice, subpoena, lien, order, or other document issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency that is used as a means of exercising or acquiring jurisdiction over a person or property, to assert or give notice of a legal claim against a person or property, or to direct persons to take or refrain from an action.

(c) “Public employee” means an employee of this state, an employee of a city, village, township, or county of this state, or an employee of a department, board, agency, institution, commission, authority, division, council, college, university, court, school district, intermediate school district, special district, or other public entity of this state or of a city, village, township, or county in this state, but does not include a person whose employment results from election or appointment.

(d) “Public officer” means a person who is elected or appointed to any of the following:

(i) An office established by the state constitution of 1963.

(ii) A public office of a city, village, township, or county in this state.

(iii) A department, board, agency, institution, commission, court, authority, division, council, college, university, school district, intermediate school district, special district, or other public entity of this state or a city, village, township, or county in this state.

(e) “Unauthorized process” means either of the following:

(i) A document simulating legal process that is prepared or issued by or on behalf of an entity that purports or represents itself to be a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law but that is not a lawful tribunal or a court, public officer, or other agency created, established, authorized, or sanctioned by law.

(ii) A document that would otherwise be legal process except that it was not issued or entered by or on behalf of a court or lawful tribunal or lawfully filed with or recorded by a governmental agency as required by law. However, this subparagraph does not apply to a document that would otherwise be legal process but for 1 or more technical defects, including, but not limited to, errors involving names, spelling, addresses, or time of issue or filing or other defects that do not relate to the substance of the claim or action underlying the document.

750.371 Second or subsequent violation; penalty.

Sec. 371. Any person who is convicted of a second or subsequent violation of this chapter is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$50.00 or more than \$1,000.00.

750.375 Advertising, printing, or publishing lottery tickets; prohibited conduct; violation as misdemeanor; penalty.

Sec. 375. (1) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not advertise, print, or publish any lottery ticket or gift enterprise or any share in a lottery ticket for sale either by himself or herself or by another person.

(2) Except in the case of a lottery or gift enterprise conducted pursuant to section 372(2), a person shall not set up or exhibit or devise and make for the purpose of being set up and exhibited any sign, symbol, or any emblematic or other representation of a lottery or gift enterprise or of its drawing in any way indicating where a lottery ticket or a share in a lottery ticket or any such writing, certificate, bill, goods, merchandise or chattels, token, or other device may be purchased or obtained and shall not in any way invite or entice, or attempt to entice, any other person to purchase or receive the lottery ticket or a share in a lottery ticket.

(3) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

750.389 False or malicious statements as to insurance companies.

Sec. 389. Any person who shall make, utter, circulate, or transmit to another or others any untrue, false, or malicious statement as to the financial condition of any fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer doing business in this state, and shall thereby injure any such fraternal beneficiary society, insurance company, reciprocal exchange, or other insurer, or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement with like purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.393 Buoy or beacon; willfully removing or destroying.

Sec. 393. Any person who shall willfully remove or destroy any buoy or beacon placed in any of the waters of the state, by the authority of the United States, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.396 Wearing mask or face covering device.

Sec. 396. A person who intentionally conceals his or her identity by wearing a mask or other device covering his or her face for the purpose of facilitating the commission of a crime is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

750.404 Desertion from military service.

Sec. 404. Any person who has enlisted into the service of the United States, or of this state, and who was sworn into such service, or who offers himself or herself as a substitute for a citizen of this state duly drafted into the service of the United States or of this state and after being duly sworn into such service, deserts the same, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.407 Military draft; resisting and inciting resistance.

Sec. 407. Any person who, during any war, rebellion, or insurrection against the United States, or against this state, shall forcibly resist any military draft ordered by the authority of the United States, or of this state, or shall incite, encourage, or command any other person or persons so to resist such draft, or shall unlawfully and willfully dissuade, discourage, or endeavor to hinder any other person or persons from volunteering, enlisting, or mustering into the military service of the United States, or of this state, or shall forcibly resist, or attempt to resist, such volunteering, enlisting, or mustering into such service, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.408 Deserters; concealing or harboring as misdemeanor.

Sec. 408. Any person who shall conceal or harbor any soldier or volunteer enlisted in the service of the United States, or of this state, knowing him or her to have deserted, and with intent to aid him or her in such desertion, or shall refuse to deliver him or her up to the orders of his or her commanding officer, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.410 Solicitation of personal injury claims; validity of contracts; furnishing, selling, or buying information as to identity or treatment of patient.

Sec. 410. (1) A person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or any of the officers, agents, servants, employees, or members of any such person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or of any division, bureau, or committee of that association or organization, either incorporated or unincorporated, who shall directly or indirectly, individually or by agent, servant, employee, or member, solicit a person injured as the result of an accident, his or her administrator, executor, heirs, or assigns, his or her guardian, or members of the family of the injured person, for the purpose of representing that person in making a claim for damages or prosecuting an action or causes of action arising out of a personal injury claim against any other person, firm, or corporation, or to employ counsel for the purpose of that solicitation, is guilty of a misdemeanor, and shall upon conviction thereof, if a natural person, be punished by a fine not to exceed \$750.00 or by imprisonment for not more than 6 months, or both. The same penalties apply upon conviction to a member of a copartnership, or an officer or agent of a corporation, association, or other organization, or an officer or agent, who shall consent to, participate in, or aid or abet a violation of this section upon the part of the copartnership of which he or she is a member, or of the corporation, association, or organization of which he or she is such an officer or agent. A contract entered into as a result of such a solicitation is void. This subsection does not apply to an unsolicited contract entered into by a person, firm, or corporation with an attorney duly admitted to practice law in this state.

(2) Except as otherwise provided by law, administrative rule, or valid legal process, any person, firm or corporation who, for any consideration and without the prior written permission of a patient or his or her personal representative, furnishes, receives, buys, offers to buy, sells, or offers to sell, directly or indirectly, the identity of the patient or any information concerning the treatment of the patient, including, but not limited to, information contained in the files or records of a health care facility, health care provider, or insurance company, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00, or both.

750.411a False report of crime; violation; penalty; payment of costs by juvenile.

Sec. 411a. (1) Except as provided in subsection (2), a person who intentionally makes a false report of the commission of a crime to a member of the Michigan state police, a sheriff or deputy sheriff, a police officer of a city or village, or any other peace officer of this state knowing the report is false is guilty of a crime as follows:

(a) If the report is a false report of a misdemeanor, 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 both.

(b) If the report is a false report of a felony, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(2) A person shall not do either of the following:

(a) Knowingly make a false report of a violation or attempted violation of chapter XXXIII or section 327 or 328 and communicate the false report to any other person.

(b) Threaten to violate chapter XXXIII or section 327 or 328 and communicate the threat to any other person.

(3) A person who violates subsection (2) is guilty of a felony punishable as follows:

(a) For a first conviction under subsection (2), by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) For a second or subsequent conviction under subsection (2), imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(4) The court may order a person convicted under subsection (2) to pay to the state or a local unit of government the costs of responding to the false report including, but not limited to, use of police or fire emergency response vehicles and teams.

(5) If the person ordered to pay costs under subsection (4) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(6) As used in this section:

(a) "Local unit of government" means:

(i) A city, village, township, or county.

- (ii) A local or intermediate school district.
 - (iii) A public school academy.
 - (iv) A community college.
- (b) “State” includes a state institution of higher education.

750.411d Requesting assistance of ambulance service or advanced mobile emergency care service with intent not to use assistance as misdemeanor; penalty.

Sec. 411d. A person who, with the intent not to use the assistance, knowingly causes or makes a request for the assistance of an ambulance service or an advanced mobile emergency care service is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

750.414 Motor vehicle; use without authority but without intent to steal.

Sec. 414. Any person who takes or uses without authority any motor vehicle without intent to steal the same, or who is a party to such unauthorized taking or using, is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$1,500.00. However, in case of a first offense, the court may reduce the punishment to imprisonment for not more than 3 months or a fine of not more than \$500.00. However, this section does not apply to any person or persons employed by the owner of said motor vehicle or anyone else, who, by the nature of his or her employment, has the charge of or the authority to drive said motor vehicle if said motor vehicle is driven or used without the owner’s knowledge or consent.

750.428 Dividing fees.

Sec. 428. Any physician or surgeon who shall divide fees with or shall promise to pay a part of his or her fee to or pay a commission to any other physician or surgeon or person who calls him or her in consultation or sends patients to him or her for treatment or operation, and any physician or surgeon who shall receive any money prohibited by this section, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

If a physician or surgeon is convicted of violating this section, the board of registration in medicine, upon a first conviction, may and upon a subsequent conviction shall, revoke the license of the person so convicted.

750.429 Employing solicitors, cappers, or drummers.

Sec. 429. Any physician or surgeon engaged in the practice of medicine in this state who shall employ any solicitor, capper, or drummer for the purpose of procuring patients, or who shall subsidize any hotel or boarding house, or who shall pay or present to any person money or other valuable gift for bringing patients to him or her, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.430 Prescribing while intoxicated.

Sec. 430. Any physician or other person who, while in a state of intoxication, prescribes a poison, drug, or medicine to another person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.454 Leasing houses for purposes of prostitution; misdemeanor.

Sec. 454. Any person who shall let any dwelling house, knowing that the lessee intends to use it as a house of ill-fame or place of resort for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, or who shall knowingly permit such lessee to use the same for such purpose, or who shall receive any rent for any dwelling, house, room, or apartment which is used as a house of ill-fame or place of resort for prostitutes, or for the purpose of prostitution and lewdness, or for the purpose of gambling for money or other property, having reasonable cause to believe such house, room, or apartment is used for any such purpose, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00. However, no person shall be liable for receiving rent as aforesaid for any period prior to the time when he or she has reasonable cause to believe that such house, room, or apartment is used for any such purpose.

750.466 Selling diseased or unwholesome provisions without notice.

Sec. 466. Any person who shall knowingly sell any kind of diseased, corrupted, or unwholesome provisions, whether for meat or drink, without making the same fully known to the buyer is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.478 Willful neglect of duty; public officer or person holding public trust or employment; penalty.

Sec. 478. When any duty is or shall be enjoined by law upon any public officer, or upon any person holding any public trust or employment, every willful neglect to perform such duty, where no special provision shall have been made for the punishment of such delinquency, constitutes a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.482 Neglecting or refusing to pay over moneys collected; penalty.

Sec. 482. Any officer who shall collect or receive any moneys on account of any fine, penalty, forfeiture, or recognizance, and shall neglect or refuse to pay over the same according to law, or shall appropriate or dispose of the same to his or her own use, or in any manner not authorized by law, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.490a Purchase by employee upon public credit for private use.

Sec. 490a. An officer or employee of any governmental agency shall not purchase or cause to be purchased any goods, wares, or merchandise of any description in the name of or on the credit of the governmental agency for any other purpose than for use or resale in the regular course of the official business of the governmental agency; or sell or offer for sale goods, wares, or merchandise purchased in the name of or on the credit of the governmental agency, at any price other than the price at which such goods are offered generally to the public by the governmental agency.

As used in this section, "governmental agency" means any and all branches or departments of the state government; any and all branches or departments of the government of any county, city, village, school district, township, or other municipal corporation in this state; and any commission, board, or other similar body organized to assist in the conduct of the governmental or proprietary functions of state or local government.

Any person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

750.492 Public records; inspection; use; copying; removal.

Sec. 492. Any officer having the custody of any county, city, or township records in this state who shall when requested fail or neglect to furnish proper and reasonable facilities for the inspection and examination of the records and files in his or her office and for making memoranda of transcripts therefrom during the usual business hours, which shall not be less than 4 hours per day, to any person having occasion to make examination of them for any lawful purpose is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00. The custodian of said records and files may make such reasonable rules with reference to the inspection and examination of them as shall be necessary for the protection of said records and files and to prevent interference with the regular discharge of the duties of such officer. The officer shall prohibit the use of pen and ink in making copies or notes of records and files in his or her office. No books, records, and files shall be removed from the office of the custodian thereof, except by the order of the judge of any court of competent jurisdiction, or in response to a subpoena duces tecum issued therefrom, or for audit purposes conducted pursuant to 1919 PA 71, MCL 21.41 to 21.55, 1929 PA 52, MCL 14.141 to 14.145, or 1968 PA 2, MCL 141.421 to 141.440a, with the permission of the official having custody of the records if the official is given a receipt listing the records being removed.

750.502b Sale or attempted sale of kerosene with flash point of less than 100 degrees Fahrenheit as misdemeanor; penalty.

Sec. 502b. A person who knowingly sells or attempts to sell to any person in this state, for use in atmospheric pressure wick-feed illuminating apparatus or atmospheric pressure wick-feed heating stoves or in gravity-feed cook stoves, any kerosene, whether manufactured in this state or not, that has a flash point of less than 100 degrees Fahrenheit as determined by an appropriate closed cup tester method specified in the American standards of testing materials standard for kerosene, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00, or both.

750.508 Equipping vehicle with radio able to receive signals on frequencies assigned for police purposes; permit required; exceptions; misdemeanor; penalty; radar detectors not applicable.

Sec. 508. (1) Any person who shall equip a vehicle with a radio receiving set that will receive signals sent on frequencies assigned by the federal communications commission of the United States of America for police purposes, or use the same in this state unless the vehicle is used or owned by a peace officer, or a bona fide amateur radio operator holding a technician class, general, advanced, or extra class amateur license issued by the federal communications commission, without first securing a permit so to do from the director of the department of state police upon application as he or she may prescribe, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(2) This section does not apply to the use of radar detectors.

750.509 False reports to police broadcasting station.

Sec. 509. Any person who shall willfully make to any radio broadcasting station operated by any law enforcement agency any false, misleading, or unfounded report, for the purpose of interfering with the operation thereof, or with the intention of misleading any peace officer or officers of this state, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.519 Disciplining or discharging on report of railroad detective.

Sec. 519. A common carrier by railroad, its agents, superintendents, managers, or employees owning or operating any line or lines of railroad in this state and engaged in commerce by railroad, employing any special agent, detective, or person commonly known as a spotter for the purpose of investigation and obtaining and reporting to the employer, its agents, superintendents, or managers information concerning its employees shall not discipline or discharge any of its employees if the act of discipline or discharge is based upon the report of such special agent, detective, or spotter, which involves a question of integrity, honesty, or breach of any rule of the employer, unless such employer, its agents, superintendents, or managers first give notice to such employee so reported and grant a hearing to the employee when he or she so requests and, upon demand by said employee, the employer at the hearing shall state the specific charges against the employee, and the accused employee shall have the right to demand and be confronted with the person making such report to his or her employer, have the right at the hearing to cross-examine the agent, detective, or spotter making the report, and have the right to employ counsel to represent him or her at the hearing.

Any common carrier by railroad or any of its agents, superintendents, general managers, officers, or employees that violate this section are guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00. In any case of the violation of this section by any of the officers, agents, or employees of any such common carrier by railroad, the imprisonment provided herein if imposed shall be imposed upon the officers or agents committing the offense.

750.524 Riotous or unlawful assembly; neglecting or refusing to suppress assembly and arrest offenders; penalty.

Sec. 524. Any mayor, alderman, supervisor, president, trustee or member of a common council, sheriff, or deputy sheriff, having notice of any such riotous or tumultuous and unlawful assembly as is mentioned in this chapter, in the township, city, or village in which he or she lives, who shall neglect or refuse immediately to proceed to the place of such assembly, or as near as he or she can with safety, or shall omit or neglect to exercise the authority with which he or she is invested by this chapter, for suppressing such riotous or unlawful assembly, and for arresting and securing the offenders, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00.

750.537 Copper or silver ore; barter, transfer, or sale; memorandum of sale; certificate; applicability; violation as misdemeanor.

Sec. 537. A person working in any copper or silver mine of this state, or any person in behalf of such person, shall not sell, barter, transfer, or ship any copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state, and shall not be a party to any barter, transfer, or sale, or aid or assist therein, unless a memorandum be filed with the county clerk of the county where the barter, transfer, or sale shall take place, giving the names of the parties making such barter, transfer, sale, or shipment, the dates, consideration, and the origin of the copper or silver so bartered, transferred, sold, or shipped, and in all cases where the origin of said copper or silver is not known to the parties, no barter, transfer, sale, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk or by a constable or deputy sheriff, judge, stating in substance that he or she has investigated the source or origin of the copper or silver so to be bartered, transferred, sold, or shipped and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to transfer or sell the articles. This section does not apply to any person authorized to act in behalf of a person, firm, or corporation engaged in the business of mining copper

or silver as owner. Any person violating the provisions of this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.538 Copper or silver ore; sales, transfers, or shipments; memorandum of sale; certificate; violation as misdemeanor; penalty.

Sec. 538. (1) Any sales, transfers, or shipments of copper or silver ore, bullion, pig, or copper or silver in the raw or unmanufactured state in any county of this state where copper and silver are mined, by any person not engaged in the business of mining or producing copper or silver ore, bullion, pig, or copper or silver in the unmanufactured state, shall be unlawful unless and until a memorandum thereof shall be filed with the county clerk of the county where such sale or transfer shall take place, giving the names of the parties, the dates, consideration, and origin of the copper or silver so sold, transferred, or shipped or offered for sale, transfer, or shipping; and in all cases where the origin of the copper or silver is not known, no sale, transfer, or shipment shall be made without a certificate being attached to such memorandum of sale duly signed by the county clerk, constable, or deputy sheriff, stating in substance that he or she has investigated the source or origin of the copper or silver offered for sale, transfer, or shipment, and that in his or her opinion the articles have not been stolen, and that the parties thereto have a right to sell, transfer, and ship the same.

(2) Any person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00.

750.540c Prohibited conduct with regard to telecommunications access device; violation as felony; penalty; amateur radio service; forfeiture; order; definitions.

Sec. 540c. (1) A person shall not assemble, develop, manufacture, possess, deliver, offer to deliver, or advertise an unlawful telecommunications access device or assemble, develop, manufacture, possess, deliver, offer to deliver, or advertise a telecommunications device intending to use those devices or to allow the devices to be used to do any of the following or knowing or having reason to know that the devices are intended to be used to do any of the following:

(a) Obtain or attempt to obtain a telecommunications service with the intent to avoid or aid or abet or cause another person to avoid any lawful charge for the telecommunications service in violation of section 219a.

(b) Conceal the existence or place of origin or destination of any telecommunications service.

(c) To receive, disrupt, decrypt, transmit, retransmit, acquire, intercept, or facilitate the receipt, disruption, decryption, transmission, retransmission, acquisition, or interception of any telecommunications service without the express authority or actual consent of the telecommunications service provider.

(2) A person shall not modify, alter, program, or reprogram a telecommunications access device for the purposes described in subsection (1).

(3) A person shall not deliver, offer to deliver, or advertise plans, written instructions, or materials for the manufacture, assembly, or development of an unlawful telecommunications access device or for the manufacture, assembly, or development of a telecommunications access device that the person intends to be used or knows or has reason to know will be used or is likely to be used to violate subsection (1). As used in this subsection, "materials" includes any hardware, cables, tools, data, computer software, or other information or equipment used or intended for use in the manufacture, assembly, or development of an unlawful telecommunications access device or a telecommunications access device.

(4) A person who violates subsection (1), (2), or (3) is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both. All fines shall be imposed for each unlawful telecommunications access device or telecommunications access device involved in the offense. Each unlawful telecommunications access device or telecommunications access device is considered a separate violation.

(5) This section does not prohibit or restrict the possession of radio receivers or transceivers by licensees of the federal communications commission in the amateur radio service that are intended primarily or exclusively for use in the amateur radio service.

(6) Any unlawful telecommunications access device involved in violation of this section is subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709, and the court may order either of the following:

(a) The unlawful telecommunications access device be destroyed or retained as provided under section 540d.

(b) The unlawful telecommunications access device be returned to the telecommunications service provider if the device is owned or controlled by the provider or disposed of as provided under section 540d.

(7) The court shall order a person convicted of violating subsection (1), (2), or (3) to make restitution in accordance with section 1a of the code of criminal procedure, 1927 PA 175, MCL 769.1a.

(8) A violation of subsection (1), (2), or (3) is considered to have occurred at the place where the person manufactures, assembles, develops, or designs an unlawful telecommunications access device or telecommunications access device, or the places where the unlawful telecommunications access device or telecommunications access device is sold or delivered to another person.

(9) As used in this section and sections 540d, 540f, and 540g:

(a) “Deliver” means to actually or constructively sell, give, loan, lease, or otherwise transfer a telecommunications access device, unlawful telecommunications access device, and plans, written instructions, or materials concerning the devices to another person.

(b) “Telecommunications access device” shall have the same meaning as in section 219a.

(c) “Telecommunications service” shall have the same meaning as in section 219a.

(d) “Telecommunications service provider” shall have the same meaning as in section 219a.

(e) “Telecommunications system” shall have the same meaning as in section 219a.

(f) “Unlawful telecommunications access device” shall have the same meaning as in section 219a.

750.540d Seizure of devices, plans, instructions, or materials.

Sec. 540d. Any telecommunications access device, unlawful telecommunications access device, plans, instructions, or materials described in section 540c may be seized under warrant or incident to a lawful arrest. Upon conviction of a person for violation of section 540c, all of the following apply to the telecommunications device, counterfeit telecommunications device, plans, instructions, or materials involved in the violation that are seized under this section:

(a) The telecommunications access device or materials shall be returned to the lawful owner of that device or materials unless he or she was convicted of the violation or had prior actual knowledge of and consented to the violation or unless the lawful owner cannot be determined or located.

(b) The unlawful telecommunications access device, plans, or instructions and any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be destroyed as contraband by the seizing law enforcement agency or retained and used by the seizing law enforcement agency for law enforcement purposes.

(c) Any telecommunications access device or materials not required to be returned to the lawful owner under subdivision (a) may be turned over by the seizing law enforcement agency to the telecommunications service provider in the territory in which the seizure occurred.

750.540f Telecommunications access device; use in violation of § 750.219a; misdemeanor; violation of subsection (1) and previous conviction as felony; prior conviction; definitions.

Sec. 540f. (1) Except as provided in subsection (2), a person who knowingly or intentionally publishes a telecommunications access device or unlawful telecommunications access device with the intent that it be used or knowing or having reason to know that it will be used or is likely to be used to violate section 219a is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(2) A person who violates subsection (1) and has a previous conviction for a violation of section 219a or 540c or former section 219c is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. For purposes of imposing fines under this section for a repeat offender, the fines shall be imposed for each telecommunications access device and unlawful telecommunications access device involved in the violation.

(3) If the prosecuting attorney intends to seek an enhanced sentence based upon the defendant having a prior conviction, the prosecuting attorney shall include on the complaint and information a statement listing that prior conviction. The existence of the defendant's prior conviction shall be determined by the court, without a jury, at 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.
- (4) As used in this section:

(a) "Publish" means to communicate information or make information available to 1 or more persons orally, in writing, or by means of any telecommunications. Publish includes, but is not limited to, communicating information on a computer bulletin board or similar system.

(b) "Telecommunications access device" shall have the same meaning as in section 219a.

(c) "Unlawful telecommunications access device" shall have the same meaning as in section 219a.

750.540g Telecommunications service; unauthorized use by officer, shareholder, partner, employee, agent, or independent contractor; use in separate incidents pursuant to scheme or course of conduct; enhanced sentence based on prior convictions.

Sec. 540g. (1) An officer, shareholder, partner, employee, agent, or independent contractor of a telecommunications service provider who knowingly and without authority

uses or diverts telecommunications services for his or her own benefit or to the benefit of another person is guilty of a crime as follows:

(a) If the total value of the telecommunications service used or diverted is 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 total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine.

(b) 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 total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service used or diverted is \$200.00 or more but less than \$1,000.00.

(ii) The person violates subdivision (a) and has 1 or more prior convictions for committing or attempting to commit an offense under this section or a local ordinance substantially corresponding to this section.

(c) 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 total value of the telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service used or diverted is \$1,000.00 or more but less than \$20,000.00.

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

(d) 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 telecommunications service used or diverted, whichever is greater, or both imprisonment and a fine:

(i) The total value of the telecommunications service used or diverted is \$20,000.00 or more.

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

(2) The values of telecommunications service used or diverted in separate incidents under a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the telecommunications service used or diverted. The courts shall also include the value of all telecommunications services made available to the violator and others as a result of the violation.

(3) 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.

(4) 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.

750.540h Intent to permit or obtain unauthorized receipt of telecommunications service.

Sec. 540h. (1) Evidence of 1 or more of the following facts shall give rise to a rebuttable presumption that the conduct that violated section 540c was engaged in knowingly by the defendant with the intent to permit or obtain the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service:

(a) The presence on the defendant's property or in the actual possession of the defendant of 1 or more unlawful telecommunications access devices.

(b) The defendant installed an unauthorized connection or provided written instructions on such connection to another. An unauthorized connection does not include any of the following:

(i) An internal connection made by a person within his or her residence for the purpose of receiving an authorized telecommunications service.

(ii) The physical connection of a cable or other device by a person located within his or her residence which was initially placed there by the telecommunications service provider.

(iii) The physical connection of a cable or other device by a person located within his or her residence which the person had reason to believe was an authorized connection.

(c) The telecommunications service provider placed written warning labels on its telecommunications access devices explaining that tampering with a telecommunications device is a violation of law and a telecommunications device in the defendant's possession has been tampered with, altered, or modified to permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(d) The defendant has published or advertised for sale a plan for an unlawful telecommunications access device and the publication or advertisement states or implies that the plan will enable the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(e) The defendant has advertised for the sale of an unlawful telecommunications access device or kit for an unlawful telecommunications access device and the advertisement states or implies that the unlawful telecommunications access device or kit will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(f) The defendant has sold, leased, or offered for sale or lease an unlawful telecommunications access device, plan, or kit for an unlawful telecommunications access device and during the course of the transaction for sale or lease, the defendant stated or implied to the buyer that the unlawful telecommunications access device will permit the unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service.

(g) As used in this section, “unauthorized receipt, acquisition, interception, disruption, decryption, transmission, or retransmission of a telecommunications service” means to do any of those acts without the express authority of the telecommunications service provider.

750.561 False weights and measures.

Sec. 561. Any person who shall offer or expose for sale, sell, or use or retain in his or her possession a false weight or measure or weighing or measuring device or any weight or measure or weighing or measuring device in the buying or selling of any commodity or thing or for hire or reward; or who shall dispose of any condemned weight, measure or weighing or measuring device contrary to law or remove any tags placed thereon by the sealer of weights and measures; or any person who shall sell or offer or expose for sale less than the quantity he or she represents, or sell or offer or expose for sale any such commodity in any manner contrary to law, or any person who shall sell or offer for sale or have in his or her possession for the purpose of selling any device or instrument to be used to, or calculated to, falsify any weight or measure, is guilty of a misdemeanor. Upon a second or subsequent conviction, he or she shall be guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not less than \$100.00 or more than \$1,000.00.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

[No. 673]

(HB 6268)

AN ACT to amend 1939 PA 280, entitled “An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates,” by amending section 109 (MCL 400.109), as amended by 2000 PA 168.

The People of the State of Michigan enact:

400.109 Medical services provided under act; notice and approval of proposed change in method or level of reimbursement; definitions.

Sec. 109. (1) The following medical services may be provided under this act:

(a) Hospital services that an eligible individual may receive consist of medical, surgical, or obstetrical care, together with necessary drugs, X-rays, physical therapy, prosthesis,

transportation, and nursing care incident to the medical, surgical, or obstetrical care. The period of inpatient hospital service shall be the minimum period necessary in this type of facility for the proper care and treatment of the individual. Necessary hospitalization to provide dental care shall be provided if certified by the attending dentist with the approval of the department of community health. An individual who is receiving medical treatment as an inpatient because of a diagnosis of tuberculosis or mental disease may receive service under this section, notwithstanding the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, and 1925 PA 177, MCL 332.151 to 332.164. The department of community health shall pay for hospital services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services.

(b) An eligible individual may receive physician services authorized by the department of community health. The service may be furnished in the physician's office, the eligible individual's home, a medical institution, or elsewhere in case of emergency. A physician shall be paid a reasonable charge for the service rendered. Reasonable charges shall be determined by the department of community health and shall not be more than those paid in this state for services rendered under title XVIII.

(c) An eligible individual may receive nursing home services in a state licensed nursing home, a medical care facility, or other facility or identifiable unit of that facility, certified by the appropriate authority as meeting established standards for a nursing home under the laws and rules of this state and the United States department of health and human services, to the extent found necessary by the attending physician, dentist, or certified Christian Science practitioner. An eligible individual may receive nursing services in a short-term nursing care program established under section 22210 of the public health code, 1978 PA 368, MCL 333.22210, to the extent found necessary by the attending physician when the combined length of stay in the acute care bed and short-term nursing care bed exceeds the average length of stay for medicaid hospital diagnostic related group reimbursement. The department of community health shall not make a final payment pursuant to title XIX for benefits available under title XVIII without documentation that title XVIII claims have been filed and denied. The department of community health shall pay for nursing home services in accordance with the state plan for medical assistance adopted pursuant to section 10 and approved by the United States department of health and human services. A county shall reimburse a county maintenance of effort rate determined on an annual basis for each patient day of medicaid nursing home services provided to eligible individuals in long-term care facilities owned by the county and licensed to provide nursing home services. For purposes of determining rates and costs described in this subdivision, all of the following apply:

(i) For county owned facilities with per patient day updated variable costs exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home-class variable cost limit, the quantity offset by the difference between per patient day updated variable cost and the concomitant variable cost limit for the county facility. The county rate shall not be less than zero.

(ii) For county owned facilities with per patient day updated variable costs not exceeding the variable cost limit for the county facility, county maintenance of effort rate means 45% of the difference between per patient day updated variable cost and the concomitant nursing home class variable cost limit.

(iii) For county owned facilities with per patient day updated variable costs not exceeding the concomitant nursing home class variable cost limit, the county maintenance of effort rate shall equal zero.

(iv) For the purposes of this section: “per patient day updated variable costs and the variable cost limit for the county facility” shall be determined pursuant to the state plan for medical assistance; for freestanding county facilities the “nursing home class variable cost limit” shall be determined pursuant to the state plan for medical assistance and for hospital attached county facilities the “nursing class variable cost limit” shall be determined pursuant to the state plan for medical assistance plus \$5.00 per patient day; and “freestanding” and “hospital attached” shall be determined in accordance with the federal regulations.

(v) If the county maintenance of effort rate computed in accordance with this section exceeds the county maintenance of effort rate in effect as of September 30, 1984, the rate in effect as of September 30, 1984 shall remain in effect until a time that the rate computed in accordance with this section is less than the September 30, 1984 rate. This limitation remains in effect until December 31, 2007. For each subsequent county fiscal year the maintenance of effort may not increase by more than \$1.00 per patient day each year.

(vi) For county owned facilities, reimbursement for plant costs will continue to be based on interest expense and depreciation allowance unless otherwise provided by law.

(d) An eligible individual may receive pharmaceutical services from a licensed pharmacist of the person’s choice as prescribed by a licensed physician or dentist and approved by the department of community health. In an emergency, but not routinely, the individual may receive pharmaceutical services rendered personally by a licensed physician or dentist on the same basis as approved for pharmacists.

(e) An eligible individual may receive other medical and health services as authorized by the department of community health.

(f) Psychiatric care may also be provided pursuant to the guidelines established by the department of community health to the extent of appropriations made available by the legislature for the fiscal year.

(2) The director shall provide notice to the public, in accordance with applicable federal regulations, and shall obtain the approval of the committees on appropriations of the house of representatives and senate of the legislature of this state, of a proposed change in the statewide method or level of reimbursement for a service, if the proposed change is expected to increase or decrease payments for that service by 1% or more during the 12 months after the effective date of the change.

(3) As used in this act:

(a) “Title XVIII” means title XVIII of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1395 to 1395b, 1395b-2, 1395b-6 to 1395b-7, 1395c to 1395i, 1395i-2 to 1395i-5, 1395j to 1395t, 1395u to 1395w, 1395w-2 to 1395w-4, 1395w-21 to 1395w-28, 1395x to 1395yy, and 1395bbb to 1395ggg.

(b) “Title XIX” means title XIX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r-6 and 1396r-8 to 1396v.

(c) “Title XX” means title XX of the social security act, chapter 531, 49 Stat. 620, 42 U.S.C. 1397 to 1397f.

This act is ordered to take immediate effect.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

[No. 674]**(HB 6202)**

AN ACT to amend 1973 PA 116, entitled “An act to provide for the protection of children through the licensing and regulation of child care organizations; to provide for the establishment of standards of care for child care organizations; to prescribe powers and duties of certain departments of this state and adoption facilitators; to provide penalties; and to repeal acts and parts of acts,” (MCL 722.111 to 722.128) by adding section 9.

The People of the State of Michigan enact:

722.119 Child care center, child caring institution, or child placing agency; presence of staff member prohibited; conditions; unsupervised contact by volunteer prohibited; conditions; documentation that staff member or volunteer not named in central registry; policy regarding supervision of volunteers.

Sec. 9. (1) A staff member shall not be present in a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of hire.

(2) A volunteer shall not have unsupervised contact with children who are in the care of a child care center, child caring institution, or child placing agency if he or she has been convicted of either of the following:

(a) Child abuse or child neglect.

(b) A felony involving harm or threatened harm to an individual within the 10 years immediately preceding the date of offering to volunteer at the child care center, child caring institution, or child placing agency.

(3) Before a staff member or unsupervised volunteer may have contact with a child who is in the care of a child care center, child caring institution, or child placing agency, the staff member or volunteer shall provide the child care center, child caring institution, or child placing agency with documentation from the family independence agency that he or she has not been named in a central registry case as the perpetrator of child abuse or child neglect. For individuals who are employed by or volunteer at a child care center, child caring institution, or child placing agency, the child care center, child caring institution, or child placing agency shall comply with this subsection not later than the date on which that child care center's, child caring institution's, or child placing agency's license is issued or first renewed after the effective date of the amendatory act that added this section. As used in this subsection, “child abuse” and “child neglect” mean those terms as defined in section 2 of the child protection law, 1975 PA 238, MCL 722.622.

(4) Each child care center, child caring institution, or child placing agency shall establish and maintain a policy regarding supervision of volunteers including volunteers who are parents of a child receiving care at the child care center, child caring institution, or child placing agency.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

[No. 675]**(HB 4675)**

AN ACT to amend 1992 PA 234, entitled “An act to establish a judges retirement system; to provide for the administration and maintenance of the retirement system; to create a retirement board; to prescribe the powers and duties of the retirement board; to establish certain reserves for the retirement system; to establish certain funds; to prescribe the powers and duties of certain state departments and certain state and local officials and employees; to provide for certain disqualifications; to prescribe penalties and provide remedies; and to repeal acts and parts of acts,” (MCL 38.2101 to 38.2670) by adding section 512.

The People of the State of Michigan enact:

38.2512 Supplemented retirement allowance.

Sec. 512. (1) A person may elect to receive a supplemented retirement allowance if the person meets all of the following requirements:

(a) The person is a retirant or beneficiary of a deceased retirant whose effective date of retirement was on or after January 1, 1980 but before January 1, 1993.

(b) The person is not a retirant or beneficiary of a deceased retirant who was a member of the former judges retirement system before September 8, 1961.

(c) The person executes and submits to the retirement system an election form with a waiver agreement in form and substance as required under subsection (7).

(2) Effective June 1, 2003, a person who meets the requirements of subsection (1) and who timely files a fully executed waiver agreement with the retirement system on a form furnished by the retirement system, on or after January 1, 2003, but not later than April 1, 2003, shall receive a retirement allowance supplemented as follows:

Effective Date of Retirement	Percent of Increase
January 1, 1992 to December 31, 1992	3.5%
January 1, 1991 to December 31, 1991	4.0%
January 1, 1990 to December 31, 1990	4.5%
January 1, 1989 to December 31, 1989	5.0%
January 1, 1988 to December 31, 1988	5.5%
January 1, 1987 to December 31, 1987	6.0%
January 1, 1986 to December 31, 1986	6.5%
January 1, 1985 to December 31, 1985	7.0%
January 1, 1984 to December 31, 1984	7.5%
January 1, 1983 to December 31, 1983	8.0%
January 1, 1982 to December 31, 1982	8.0%
January 1, 1981 to December 31, 1981	8.0%
January 1, 1980 to December 31, 1980	8.0%

(3) The supplemental retirement allowance calculated under subsection (2) shall be the basis on which any future adjustments to the retirement allowance are calculated.

(4) The supplement provided by this section shall be calculated under subsection (2) and shall be paid to retirants or beneficiaries of deceased retirants before October 1, 2003.

(5) If a retirant dies before October 1, 2003 and no benefits become payable under section 506 or 508, the retirant’s retirement allowance shall not be supplemented.

(6) For purposes of this section, a person who elects to receive a retirement allowance supplemented under this section shall be deemed to have done all of the following:

(a) Waived any past, present, or future claim or claims asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI).

(b) Waived any past, present, or future claim or claims that arise from facts that form the basis of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), including, but not limited to, asserted violations of the equal protection clause of section 1 of Amendment XIV of the constitution of the United States, section 2 of article I of the state constitution of 1963, section 604(6), the wasting trust doctrine, and fiduciary duties.

(c) Agreed that he or she will not take any action to question the legal effect of, amend, or rescind the waiver created by his or her election under this section.

(7) The waiver agreement agreed to, executed, and submitted by a person electing a retirement allowance supplemented under this section shall read as follows:

“1. _____ (Name of person) desires to settle and compromise, in their entirety, any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case, including, but not limited to, asserted violations of the equal protection clause of the fourteenth amendment of the United States constitution, section 2 of article I of the state constitution of 1963, section 604(6) of the judges retirement act of 1992, 1992 PA 234, MCL 38.2604, the wasting trust doctrine, and fiduciary duties.

2. _____ (Name of person) agrees to settle and compromise these claims for the consideration of receiving a retirement allowance supplemented under section 512 of the judges retirement act of 1992, 1992 PA 234, MCL 38.2512.

3. _____ (Name of person) waives any right or interest in any past, present, or future claim or claims, either asserted by the plaintiffs in the case of Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI), or that arise from the facts forming the basis of that case.

4. _____ (Name of person) will submit a notarized copy of this waiver agreement to the retirement system no later than 5 p.m. eastern standard time on April 1, 2003 and agrees to not take any action to question the legal effect of, amend, or rescind this waiver agreement.

5. _____ (Name of person) expressly agrees and understands that nothing in this agreement limits the rights of the state or its agencies, employees, and agents to any privilege, immunity, or defense that would otherwise have been available if the claims or potential claims had been actually litigated in any forum.

6. _____ (Name of person) agrees that, if this waiver agreement is challenged, invalidated, or otherwise found to be unenforceable, any retirement supplement under section 512 shall cease for any person for which the waiver is challenged, invalidated, or otherwise determined to be unenforceable.

7. _____ (Name of Person) agrees not to fund, offer advice regarding, or otherwise participate in the case known as Ernst v Roberts, Case No. 01-CV-73738-DT (ED MI) or any successor case raising similar claims, and further agrees to oppose class certification and agrees to opt out of any such class in any such cases and to inform the presiding judge of that opposition and desire to opt out.”.

(8) Nothing contained in this section shall create or be construed to create any of the following:

(a) Any obligation or liability of the state or the retirement system to any person who does not timely file or enter a form and waiver agreement under this section.

(b) Any admission of liability to any person in any litigation or future litigation.

(c) Any waiver of any privilege, immunity, or defense that is or would have been available to this state or its agencies, employees, or agents in any litigation or future litigation with any person.

This act is ordered to take immediate effect.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

[No. 676]

(HB 5953)

AN ACT to provide for circumstances under which certain forestry operations shall not be found to be a public or private nuisance; to provide for certain forestry management practices; to provide for certain powers and duties for certain state agencies and departments; and to provide remedies.

The People of the State of Michigan enact:

320.2031 Short title.

Sec. 1. This act shall be known and may be cited as the “right to forest act”.

320.2032 Legislative findings.

Sec. 2. The legislature finds:

(a) That forestry operations are valuable to the state’s economy, provide jobs to its citizens, can be an effective wildlife management tool, are essential to the manufacture of forestry products that are used and enjoyed by the people of the state, and benefit the general welfare of the people of the state.

(b) That forestry operations are adversely affected by the random encroachment of urban and residential land uses throughout rural areas of the state.

(c) That, as a result of random encroachment, conflicts have arisen between traditional forestry land uses and urban and residential land uses.

(d) That conflicts between forestry and urban land uses threaten to permanently convert forestland to other uses, whereby the forestland resources are permanently lost to the economy and the human and physical environments of the state.

(e) That it is in the best interest of the state to ensure that forestry operations using generally accepted forestry management practices are not subject to public and private nuisance actions arising out of conflicts between the forestry operations and urban and residential land uses.

320.2033 Definitions.

Sec. 3. As used in this act:

(a) “Commission” means the commission of natural resources.

(b) “Department” means the department of natural resources.

(c) “Forest” means a tract of land that is at least 10% stocked by trees of any size, whether of commercial or noncommercial species, or formerly having tree cover and not

currently developed for nonforest use, including woodlands, woodlots, windbreaks, and shelter belts.

(d) “Forestry operations” means activities related to the harvesting, reforestation, and other management activities, including, but not limited to, thinning, pest control, fertilization, and wildlife management, that are consistent with principles of sustainable forestry.

(e) “Generally accepted forestry management practices” means those forest management practices as prescribed by the commission. In prescribing generally accepted forestry management practices, the commission shall give due consideration to available department information, written recommendations, and comments from the department and other interested persons that may include, but are not limited to, all of the following:

- (i) The department of agriculture.
- (ii) The Michigan state university extension.
- (iii) The United States department of agriculture agencies, services, and programs.
- (iv) College and university forestry programs.
- (v) Professional, industry, and conservation organizations.

(f) “Landowner” means the possessor of a fee interest in land or a tenant, lessee, occupant, or other person in lawful control of land.

(g) “Sustainable forestry” means forestry practices that are designed to meet present and future wood product needs by employing a land stewardship ethic that integrates the reforestation, managing, growing, nurturing, and harvesting of trees for useful products with the conservation of soil, air and water quality, wildlife and fish habitat, and visual changes.

(h) “Timber” means live or dead trees, including, but not limited to, bark, foliage, wood, and firewood.

320.2034 Forestry operations as public or private nuisance.

Sec. 4. (1) Forestry operations shall not be found to be a public or private nuisance if the forestry operations alleged to be a nuisance conform to generally accepted forestry management practices. Generally accepted forestry management practices shall be reviewed annually by the commission and revised as considered necessary.

(2) Forestry operations voluntarily using sustainable forestry practices as approved by the commission shall not be found to be a public or private nuisance if the forestry operations existed before a change in the land use or occupancy of land within 1 mile of the boundaries of the forestland, and if before that change in land use or occupancy, the forestry operations would not have been a nuisance.

(3) Forestry operations that are in conformance with generally accepted forestry management practices shall not be found to be a public or private nuisance as a result of any of the following:

- (a) A change in ownership or size.
- (b) Cessation or interruption of forestry operations.
- (c) Enrollment in governmental forestry or conservation programs.
- (d) Adoption of new forestry technology.

(4) As used in this section, a public or private nuisance includes, but is not limited to, allegations of nuisance based on any of the following:

- (a) Visual changes due to the removal of vegetation or timber.

(b) Noise from forestry equipment used in normal, generally accepted forestry management practices.

(c) Removal of vegetation or timber on a forest adjoining the property of another landowner.

(d) The use of chemicals normally utilized in forestry operations, and applied under generally accepted forestry management practices.

320.2035 Recovery of costs and attorney fees.

Sec. 5. In any nuisance action in which forestry operations are alleged to be a nuisance, if the defendant landowner or forestry operation prevails, the landowner or forestry operation may recover from the plaintiff the actual amount of costs and expenses determined by the court to have been reasonably incurred by the landowner or forestry operation in connection with the defense of the action, together with reasonable and actual attorney fees.

320.2036 Land, farms, or farming operations subject to §§ 286.471 to 286.474.

Sec. 6. This act does not supersede, negate, or determine any protection of land, farms, or farming operations that are subject to the Michigan right to farm act, 1981 PA 93, MCL 286.471 to 286.474.

Approved December 25, 2002.

Filed with Secretary of State December 26, 2002.

[No. 677]

(HB 5540)

AN ACT to amend 1995 PA 29, entitled "An act concerning unclaimed property; to provide for the reporting and disposition of unclaimed property; to make uniform the law concerning unclaimed property; to prescribe the powers and duties of certain state agencies and officials; to prescribe penalties and provide remedies; and to repeal acts and parts of acts," by amending section 16 (MCL 567.236).

The People of the State of Michigan enact:

567.236 Unpaid wages.

Sec. 16. (1) Unpaid wages greater than \$50.00, including wages represented by unprinted payroll checks greater than \$50.00, owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable are presumed abandoned.

(2) Unpaid wages of \$50.00 or less owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable are not subject to this act.

This act is ordered to take immediate effect.

Approved December 25, 2002.

Filed with Secretary of State December 30, 2002.

[No. 678]**(HB 6260)**

AN ACT to amend 1961 PA 236, entitled “An act to revise and consolidate the statutes relating to the organization and jurisdiction of the courts of this state; the powers and duties of such courts, and of the judges and other officers thereof; the forms and attributes of civil claims and actions; the time within which civil actions and proceedings may be brought in said courts; pleading, evidence, practice and procedure in civil and criminal actions and proceedings in said courts; to provide remedies and penalties for the violation of certain provisions of this act; to repeal all acts and parts of acts inconsistent with or contravening any of the provisions of this act; and to repeal acts and parts of acts,” by amending sections 601 and 841 (MCL 600.601 and 600.841), section 601 as amended by 1996 PA 388 and section 841 as amended by 2000 PA 56, and by adding chapter 4 and sections 425 and 8304.

The People of the State of Michigan enact:

CHAPTER 4

TRIAL COURT CONCURRENT JURISDICTION

600.401 Plan of concurrent jurisdiction.

Sec. 401. (1) Within a county or judicial circuit, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, a plan of concurrent jurisdiction may be adopted by a majority vote of each of the following groups of judges for the participating trial courts in that county or judicial circuit:

- (a) The circuit judges, the probate judges, and the district judges.
 - (b) The circuit judges and the probate judges.
 - (c) The circuit judges and the district judges.
 - (d) The probate judges and the district judges.
- (2) A plan of concurrent jurisdiction may provide for 1 or more of the following:
- (a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.
 - (b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court.
 - (c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.
 - (d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court.
 - (e) The district court and 1 or more district judges may exercise the power and jurisdiction of the circuit court.
 - (f) The district court and 1 or more district judges may exercise the power and jurisdiction of the probate court.
- (3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

(5) This section does not apply to the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

600.405 Plan of concurrent jurisdiction; adoption; options.

Sec. 405. Sections 406, 407, and 408 provide options for adoption of a plan of concurrent jurisdiction in the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, which have district court districts of the third class.

600.406 Circuit court and probate court; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plan of concurrent jurisdiction.

Sec. 406. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges and the probate judges, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the circuit court and probate court in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.407 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw counties; adoption of plan of concurrent jurisdiction.

Sec. 407. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, and Washtenaw, the circuit judges, the probate judges, and the district judges in the county-funded district court district, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the county-funded district court district.

(e) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the county-funded district court district within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.408 Trial courts; Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne counties; adoption of plans of concurrent jurisdiction.

Sec. 408. (1) Within the counties of Genesee, Ingham, Kent, Macomb, Oakland, Washtenaw, and Wayne, the circuit judges, the probate judges, and the district judges in 1 or more district court districts within the county, subject to approval by the state supreme court and subject to the limitations contained in sections 410, 601, 841, and 8304, by a majority vote of each group of judges, may adopt 1 or more plans of concurrent jurisdiction for the participating trial courts in that county.

(2) A plan of concurrent jurisdiction under this section may provide for 1 or more of the following:

(a) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the probate court.

(b) The circuit court and 1 or more circuit judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

(c) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the circuit court.

(d) The probate court and 1 or more probate judges may exercise the power and jurisdiction of the district court within the participating district court districts within the county.

(e) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the circuit court.

(f) The district court and 1 or more district judges in the participating district court districts within the county may exercise the power and jurisdiction of the probate court.

(3) A plan of concurrent jurisdiction shall provide for the transfer or assignment of cases between the trial courts affected by the plan and to individual judges of those courts as necessary to implement the plan and to fairly distribute the workload among those judges.

(4) A plan of concurrent jurisdiction involving district court districts of the third class may include an agreement as to the allocation of court revenue, other than revenue payable by statute to libraries or state funds, and court expenses. This agreement is subject to approval by the county board of commissioners and by each local funding unit of each participating district of the third class.

(5) A plan of concurrent jurisdiction shall become effective on the first day of the month at least 90 days after the approval of the plan by the supreme court.

600.410 Plan of concurrent jurisdiction; delegation; prohibition.

Sec. 410. A plan of concurrent jurisdiction adopted under this chapter shall not include a delegation of any of the following:

(a) A power of appointment to a public office delegated by constitution or statute to the circuit court or a circuit judge.

(b) A power of appointment to a public office delegated by constitution or statute to the probate court or a probate judge.

(c) A power of appointment to a public office delegated by constitution or statute to the district court or a district judge.

600.415 Family court plan.

Sec. 415. A plan of concurrent jurisdiction may include a family court plan as provided in chapter 10.

600.420 Record maintenance.

Sec. 420. Unless an alternate method of record maintenance is approved by the county clerk as part of a plan of concurrent jurisdiction, the records of the circuit court, probate court, and district court shall continue to be maintained by that respective county clerk, probate register, or district court clerk in the same manner as the method employed for record management before the plan of concurrent jurisdiction is adopted.

600.425 Approval of plan by local funding units.

Sec. 425. Not later than 30 days before a proposed plan of concurrent jurisdiction under this chapter is submitted to the supreme court for approval, the plan shall be submitted to the local funding unit or units for their review of the plan's financial implications. Consistent with article VII, section 8 of the state constitution of 1963, the cost of implementing a plan of concurrent jurisdiction is subject to approval by the funding unit or units through the funding units' budgeting process.

600.601 Circuit court; jurisdiction and power.

Sec. 601. (1) The circuit court has the power and jurisdiction:

(a) Possessed by courts of record at the common law, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(b) Possessed by courts and judges in chancery in England on March 1, 1847, as altered by the state constitution of 1963, the laws of this state, and the rules of the supreme court.

(c) Prescribed by the rules of the supreme court.

(2) The circuit court has exclusive jurisdiction over condemnation cases commenced under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630.

(3) In a judicial circuit in which the circuit court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the circuit court has concurrent jurisdiction with the probate court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The probate court shall have exclusive jurisdiction over trust and estate matters.

(b) The district court shall have exclusive jurisdiction over small claims and civil infraction actions.

(4) The family division of circuit court has jurisdiction as provided in chapter 10.

600.841 Probate court; jurisdiction and power.

Sec. 841. (1) The probate court has jurisdiction and power as follows:

(a) As conferred upon it under the estates and protected individuals code, 1998 PA 386, MCL 700.1101 to 700.8102.

(b) As conferred upon it under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106.

(c) As conferred upon it under this act.

(d) As conferred upon it under another law or compact.

(2) In a judicial circuit in which the probate court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the probate court has concurrent jurisdiction with the circuit court or the district court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by law.

(b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court shall have exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) The district court shall have exclusive jurisdiction over small claims and civil infraction actions.

600.8304 District court; jurisdiction.

Sec. 8304. In a district court district in which the district court is affected by a plan of concurrent jurisdiction adopted under chapter 4, the district court has concurrent jurisdiction with the circuit court or the probate court, or both, as provided in the plan of concurrent jurisdiction, except as to the following matters:

(a) The circuit court shall have exclusive jurisdiction over appeals from the district court and from administrative agencies as authorized by statute.

(b) The circuit court shall have exclusive jurisdiction and power to issue, hear, and determine prerogative and remedial writs consistent with section 13 of article VI of the state constitution of 1963.

(c) The circuit court shall have exclusive jurisdiction to hear and decide matters within the jurisdiction of the court of claims under chapter 64.

(d) The probate court shall have exclusive jurisdiction over trusts and estates.

Effective date.

Enacting section 1. This amendatory act takes effect April 1, 2003.

Approved December 25, 2002.

Filed with Secretary of State December 30, 2002.

[No. 679]**(HB 4492)**

AN ACT to amend 1971 PA 140, entitled “An act to provide for the distribution of certain state revenues to cities, villages, townships, and counties; to impose certain duties and confer certain powers on this state, political subdivisions of this state, and the officers of both; to create reserve funds; and to establish a revenue sharing task force and provide for its powers and duties,” by amending sections 11, 12, and 13 (MCL 141.911, 141.912, and 141.913), sections 11 and 13 as amended by 1998 PA 532 and section 12 as amended by 1996 PA 342.

The People of the State of Michigan enact:

141.911 Payments to counties from state income tax collections; time and basis; payments to counties based on sales tax collections.

Sec. 11. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of management and budget shall cause to be paid during each August, November, February, and May, to counties on a per capita basis the collections from the state income tax as certified by the department of treasury for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to and retention by counties.

(2) For state fiscal years beginning after September 30, 1992 and ending before October 1, 1996, the collections from the state income tax otherwise available for distribution to counties in November for the quarter period ending the prior September 30 shall be increased by \$35,900,000.00 and the collections from the state income tax otherwise available for distribution to counties in August for the quarter period ending the prior June 30 shall be decreased by \$35,900,000.00.

(3) For the 1996-1997 and 1997-1998 state fiscal years, the department of treasury shall cause to be paid to counties on a per capita basis an amount equal to 24.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a. Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause to be paid to counties both of the following:

(a) Except as provided in subdivision (c), an amount equal to the amount the county was eligible to receive under section 12a in the 1997-1998 state fiscal year.

(b) Except as provided in subdivision (c), an amount equal to 25.06% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made minus the amount determined under subdivision (a) which shall be distributed on a per capita basis. If the amount appropriated under this section to counties is less than 25.06% of 21.3% of the sales tax rate of 4%, any reduction made necessary by this appropriation in distributions to counties shall first be applied to the distribution under this subdivision.

(c) For the 2002-2003 state fiscal year only, each county shall receive 96.5% of the amount that the county would have received if the total available for distribution under subdivisions (a) and (b) were \$211,549,002.00. The total amount available for distribution to all counties under this subdivision shall not exceed \$204,144,787.00.

(4) After September 30, 2007, 25.06% of 21.3% of the sales tax collections at a rate of 4% shall be distributed to counties as provided by law.

(5) The payments under subsection (3) shall be made from revenues collected during the state fiscal year in which the payments are made and shall be made during each October, December, February, April, June, and August. Payments shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30, and for the 1996-1997 and 1997-1998 state fiscal years only the payments shall be reduced by 1/6 of the total distribution for the state fiscal year under section 12a. For state fiscal years after the 1995-1996 state fiscal year, the collections from the sales tax otherwise available for distribution to counties under subsection (3) in December shall be increased by \$17,000,000.00 and the collections from the sales tax otherwise available for distribution to counties under subsection (3) in April shall be decreased by \$17,000,000.00.

141.912 Payments to cities, villages, and townships from sales tax collections; time and basis.

Sec. 12. (1) For state fiscal years before the 1996-1997 state fiscal year, the department of treasury shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each August, November, February, and May, of the collections designated for assistance to townships, cities, and villages under section 10 of article IX of the state constitution of 1963 from the sales tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships.

(2) For state fiscal years before the 1996-1997 state fiscal year, during each calendar year, the department of treasury shall cause to be advanced and paid in June to cities, villages, and townships on a per capita basis \$9,500,000.00 of the amount that would otherwise be paid in August pursuant to subsection (1).

(3) For state fiscal years after the 1995-1996 state fiscal year and before the 2003-2004 state fiscal year, the department shall cause to be paid to each city, village, and township its share, computed on a per capita basis, during each October, December, February, April, June, and August, the collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax, the collections that are available for distribution to cities, villages, and townships. Payments under this subsection shall be based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30.

(4) For state fiscal years after the 2002-2003 state fiscal year, the department shall cause to be paid to each city, village, and township its share of the sales tax collections designated for assistance to cities, villages, and townships under section 10 of article IX of the state constitution of 1963 from the sales tax. Payments under this subsection shall be made during each October, December, February, April, June, and August, based on collections from the sales tax at a rate of 4% in the 2-month period ending the prior August 31, October 31, December 31, February 28, April 30, and June 30. The payments under this subsection shall be made from revenues collected during the state fiscal year in which the payments are made.

141.913 Payments to cities, villages, and townships from state income tax and single business tax; payments based on sales tax collections; population less than 750,000; limitations; distributions; payment dates; annual appropriation by legislature.

Sec. 13. (1) This subsection and subsection (2) apply to distributions to cities, villages, and townships during the state fiscal years before the 1996-1997 state fiscal year of

collections from the state income tax and single business tax. Except as otherwise provided in subsection (2), the department of treasury shall cause to be paid to each city, village, and township its share, computed in accordance with the tax effort formula, of the following revenues:

(a) During each August, November, February, and May, the collections from the state income tax for the quarter periods ending the prior June 30, September 30, December 31, and March 31 that are available for distribution to cities, villages, and townships under the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532.

(b) The amount of the collections from the single business tax available for distribution to cities, villages, and townships under former section 136 of the single business tax act, 1975 PA 228.

(2) The amount of collections of the state income tax otherwise available for distribution to cities, villages, and townships in November, February, and May, computed in accordance with the tax effort formula, shall be increased by \$22,600,000.00. The amount of collections otherwise available for distribution to cities, villages, and townships in August, computed in accordance with the tax effort formula, shall be decreased by \$67,800,000.00.

(3) This subsection applies to distributions to cities, villages, and townships for the 1996-1997 state fiscal year. The department shall cause to be paid in accordance with the tax effort formula an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a.

(4) The department of treasury shall cause to be paid during the 1997-1998 state fiscal year an amount equal to 75.5% of the difference between 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made and the total distribution for the state fiscal year under section 12a, both of the following:

(a) To each city, village, and township, the amount of collections distributed under subsection (3) to cities, villages, and townships for the 1996-1997 state fiscal year or its pro rata share of the collections if the collections are less than the amount of collections distributed under subsection (3) for the 1996-1997 state fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed using the tax effort formula.

(b) To each city, village, and township its share of the collections to the extent the total collections available for distribution under this subsection exceed the amount distributed to cities, villages, and townships under subdivision (a) for the fiscal year. A city's, village's, or township's share of revenues under this subdivision shall be computed on a per capita basis.

(5) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, the department of treasury shall cause distributions determined under subsections (6) to (13) to be paid to each city, village, and township from an amount equal to 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments are made. After September 30, 2007, 74.94% of 21.3% of sales tax collections at a rate of 4% shall be distributed to cities, villages, and townships as provided by law.

(6) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, except for the 2002-2003 state fiscal year, and except as otherwise provided in subsection (15), the department of

treasury shall cause to be paid \$333,900,000.00 to a city with a population of 750,000 or more as the total combined distribution under this act and section 10 of article IX of the state constitution of 1963 as annualized for any period of less than 12 months to that city. For the 2002-2003 state fiscal year only, the total combined distribution under this subsection and section 10 of article IX of the state constitution of 1963 shall be \$322,213,500.00.

(7) Except as otherwise provided in this subsection, distributions under subsections (8) to (13) to cities, villages, and townships with populations of less than 750,000 shall be made from the amount available for distribution under this section that remains after the distribution under subsection (6) is made. For the 2002-2003 state fiscal year only, each city, village, and township with a population of less than 750,000 shall receive 96.5% of the amount that the city, village, or township would have received if the total available for distribution under subsections (8) to (13) were \$363,069,728.00 and the total available for distribution under section 10 of article IX of the state constitution of 1963 were \$607,125,488.00. The total amount available for distribution to all cities, villages, and townships under this subsection shall not exceed \$936,238,383.00. The amount of the adjustment under this subsection shall be accomplished by reducing the payments under subsections (8) to (13), and payments under section 10 of article IX shall not be reduced based on any adjustments made under this subsection.

(8) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, for cities, villages, and townships with populations of less than 750,000, subject to the limitations under this section, a taxable value payment shall be made to each city, village, and township determined as follows:

(a) Determine the per capita taxable value for each city, village, and township by dividing the taxable value of that city, village, or township by the population of that city, village, or township.

(b) Determine the statewide per capita taxable value by dividing the total taxable value of all cities, villages, and townships by the total population of all cities, villages, and townships.

(c) Determine the per capita taxable value ratio for each city, village, and township by dividing the statewide per capita taxable value by the per capita taxable value for that city, village, or township.

(d) Determine the adjusted taxable value population for each city, village, and township by multiplying the per capita taxable value ratio as determined under subdivision (c) for that city, village, or township by the population of that city, village, or township.

(e) Determine the total statewide adjusted taxable value population which is the sum of all adjusted taxable value population for all cities, villages, and townships.

(f) Determine the taxable value payment rate by dividing 74.94% of 21.3% of the sales tax collections at a rate of 4% in the 12-month period ending June 30 of the state fiscal year in which the payments under this subsection are made by 3, and dividing that result by the total statewide adjusted taxable value population as determined under subdivision (e).

(g) Determine the taxable value payment for each city, village, and township by multiplying the result under subdivision (f) by the adjusted taxable value population for that city, village, or township.

(9) Subject to section 13d, for the 1998-1999 through 2005-2006 state fiscal years and for the period of October 1, 2006 through September 30, 2007, subject to the limitations under this section and except as provided in subsection (14), a unit type population

payment shall be made to each city, village, and township with a population of less than 750,000 determined as follows:

(a) Determine the unit type population weight factor for each city, village, and township as follows:

(i) For a township with a population of 5,000 or less, the unit type population weight factor is 1.0.

(ii) For a township with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.2.

(iii) For a township with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 1.44.

(iv) For a township with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 1.73.

(v) For a township with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 2.07.

(vi) For a township with a population of more than 80,000, the unit type population weight factor is 2.49.

(vii) For a village with a population of 5,000 or less, the unit type population weight factor is 1.5.

(viii) For a village with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 1.8.

(ix) For a village with a population of more than 10,000, the unit type population weight factor is 2.16.

(x) For a city with a population of 5,000 or less, the unit type population weight factor is 2.5.

(xi) For a city with a population of more than 5,000 but less than 10,001, the unit type population weight factor is 3.0.

(xii) For a city with a population of more than 10,000 but less than 20,001, the unit type population weight factor is 3.6.

(xiii) For a city with a population of more than 20,000 but less than 40,001, the unit type population weight factor is 4.32.

(xiv) For a city with a population of more than 40,000 but less than 80,001, the unit type population weight factor is 5.18.

(xv) For a city with a population of more than 80,000 but less than 160,001, the unit type population weight factor is 6.22.

(xvi) For a city with a population of more than 160,000 but less than 320,001, the unit type population weight factor is 7.46.

(xvii) For a city with a population of more than 320,000 but less than 640,001, the unit type population weight factor is 8.96.

(xviii) For a city with a population of more than 640,000, the unit type population weight factor is 10.75.

(b) Determine the adjusted unit type population for each city, village, and township by multiplying the unit type population weight factor for that city, village, or township as determined under subdivision (a) by the population of the city, village, or township.

(c) Determine the total statewide adjusted unit type population, which is the sum of the adjusted unit type population for all cities, villages, and townships.