

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 402

A bill to amend 1976 PA 223, entitled

"An act to create an agency concerned with crime victim services; to prescribe its powers and duties; to provide compensation to certain victims of crimes; to provide for the promulgation of rules; and to provide for penalties,"

by amending section 16 (MCL 18.366), as amended by 1996 PA 519.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16. (1) A person who, with intent to defraud or cheat
2 by falsely presenting the facts and circumstances of a crime to
3 the commission, causes an award of money to be made under this
4 act to any person is guilty of a crime as follows:

5 (a) If the award is less than ~~-\$100.00-~~ \$200.00, a misde-
6 meanor punishable by imprisonment for not more than ~~3 months~~ 93
7 DAYS or a fine of not more than ~~-\$1,000.00-~~ \$500.00, or both.

8 (b) If ~~the award is \$100.00 or more~~ ANY OF THE FOLLOWING
9 APPLY, THE PERSON IS GUILTY OF A MISDEMEANOR PUNISHABLE BY

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1 IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF NOT MORE THAN
2 \$2,000.00 OR 3 TIMES THE AMOUNT OF THE AWARD, WHICHEVER IS GREAT-
3 ER, OR BOTH IMPRISONMENT AND A FINE:

4 (i) THE AWARD IS \$200.00 OR MORE BUT LESS THAN \$1,000.00.

5 (ii) THE PERSON VIOLATES SUBDIVISION (A) AND HAS 1 OR MORE
6 PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
7 OFFENSE UNDER THIS SECTION.

8 (C) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF A
9 FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A
10 FINE OF NOT MORE THAN \$10,000.00 OR 3 TIMES THE AMOUNT OF THE
11 AWARD, WHICHEVER IS GREATER, OR BOTH IMPRISONMENT AND A FINE:

12 (i) THE AWARD IS \$1,000.00 OR MORE BUT LESS THAN
13 \$20,000.00.

14 (ii) THE PERSON VIOLATES SUBDIVISION (B)(i) AND HAS 1 OR
15 MORE PRIOR CONVICTIONS FOR VIOLATING OR ATTEMPTING TO VIOLATE
16 THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH, HOWEVER, A
17 PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR VIOLATING OR
18 ATTEMPTING TO VIOLATE SUBDIVISION (A) OR (B)(ii).

19 (D) IF ANY OF THE FOLLOWING APPLY, THE PERSON IS GUILTY OF a
20 felony punishable by imprisonment for not more than 10 years or a
21 fine of not more than \$15,000.00 OR 3 TIMES THE AMOUNT OF THE
22 AWARD, WHICHEVER IS GREATER, or both IMPRISONMENT AND A FINE:

23 (i) THE AWARD IS \$20,000.00 OR MORE.

24 (ii) THE PERSON VIOLATES SUBDIVISION (C)(i) AND HAS 2 OR
25 MORE PRIOR CONVICTIONS FOR COMMITTING OR ATTEMPTING TO COMMIT AN
26 OFFENSE UNDER THIS SECTION. FOR PURPOSES OF THIS SUBPARAGRAPH,

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1 HOWEVER, A PRIOR CONVICTION DOES NOT INCLUDE A CONVICTION FOR
2 VIOLATING OR ATTEMPTING TO VIOLATE SUBDIVISION (A) OR (B)(ii).

3 (2) A person who makes public or discloses to an unautho-
4 rized person information ~~which~~ THAT is confidential under this
5 act is guilty of a misdemeanor punishable by imprisonment for not
6 more than ~~3 months~~ 93 DAYS or a fine of not more than
7 \$1,000.00, or both.

8 (3) AWARDS IN VIOLATION OF THIS SECTION IN SEPARATE INCI-
9 DENTS PURSUANT TO A SCHEME OR COURSE OF CONDUCT WITHIN ANY
10 12-MONTH PERIOD MAY BE AGGREGATED TO DETERMINE THE TOTAL AWARDS.

11 (4) IF THE PROSECUTING ATTORNEY INTENDS TO SEEK AN ENHANCED
12 SENTENCE BASED UPON THE DEFENDANT HAVING 1 OR MORE PRIOR CONVIC-
13 TIONS, THE PROSECUTING ATTORNEY SHALL INCLUDE ON THE COMPLAINT
14 AND INFORMATION A STATEMENT LISTING THE PRIOR CONVICTION OR
15 CONVICTIONS. THE EXISTENCE OF THE DEFENDANT'S PRIOR CONVICTION
16 OR CONVICTIONS SHALL BE DETERMINED BY THE COURT, WITHOUT A JURY,
17 AT SENTENCING OR AT A SEPARATE HEARING FOR THAT PURPOSE BEFORE
18 SENTENCING. THE EXISTENCE OF A PRIOR CONVICTION MAY BE ESTAB-
19 LISHED BY ANY EVIDENCE RELEVANT FOR THAT PURPOSE, INCLUDING, BUT
20 NOT LIMITED TO, 1 OR MORE OF THE FOLLOWING:

21 (A) A COPY OF THE JUDGMENT OF CONVICTION.

22 (B) A TRANSCRIPT OF A PRIOR TRIAL, PLEA-TAKING, OR
23 SENTENCING.

24 (C) INFORMATION CONTAINED IN A PRESENTENCE REPORT.

25 (D) THE DEFENDANT'S STATEMENT.

26 (5) IF THE SENTENCE FOR A CONVICTION UNDER THIS SECTION IS
27 ENHANCED BY 1 OR MORE CONVICTIONS, THOSE PRIOR CONVICTIONS SHALL

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1 NOT BE USED TO FURTHER ENHANCE THE SENTENCE FOR THE CONVICTION
2 PURSUANT TO SECTION 10, 11, OR 12 OF CHAPTER IX OF THE CODE OF
3 CRIMINAL PROCEDURE, 1927 PA 175, MCL 769.10, 769.11, AND 769.12.
4 Enacting section 1. This amendatory act takes effect
5 [January 1, 2002].