

Act No. 149
Public Acts of 2001
Approved by the Governor
November 5, 2001
Filed with the Secretary of State
November 5, 2001
EFFECTIVE DATE: January 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2001**

Introduced by Senator Van Regenmorter

ENROLLED SENATE BILL No. 402

AN ACT 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:

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

(a) If the award is less than \$200.00, a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(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 amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award 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.

(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 amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award 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 violating or attempting to violate this section. For purposes of this subparagraph, however, a prior conviction does not include a conviction for violating or attempting to violate 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 amount of the award, whichever is greater, or both imprisonment and a fine:

(i) The award 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 violating or attempting to violate subdivision (a) or (b)(ii).

(2) A person who makes public or discloses to an unauthorized person information that is confidential under this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) Awards in violation of this section in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total awards.

(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 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.

Enacting section 1. This amendatory act takes effect January 1, 2002.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Ray E. Randall

Clerk of the House of Representatives.

Approved

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Governor.