

INCREASE PENALTIES FOR FINANCIAL EXPLOITATION OF VULNERABLE ADULT

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 4618 & 4727 as introduced
Sponsor: Rep. Mike Huckleberry
Committee: Senior Health, Security and Retirement

Complete to 6-2-09

A SUMMARY OF HOUSE BILLS 4618 AND 4727 AS REPORTED FROM HOUSE COMMITTEE ON 4-29-09

House Bill 4618 would amend section 174a of the Michigan Penal Code (MCL 750.174a) to increase penalties in some circumstances for the financial exploitation of vulnerable adults. It would specify that:

◇ A person in a relationship of trust with a vulnerable adult is guilty of a felony punishable by imprisonment for not more than 15 years and/or fine of up to \$15,000 or three times the value of the money or property involved, whichever is greater, if any of the following apply:

- The money or property used or obtained has a value of \$50,000 or more but less than \$100,000.
- The person has two or more prior convictions for committing or attempting to commit an offense involving between \$20,000 and \$50,000.

◇ A person is guilty of a felony punishable by imprisonment of up to 20 years and/or a fine of not more than \$50,000 or three times the value of the money or property involved, whichever is greater, if any of the following apply:

- The money or property used, obtained or attempted to be obtained has a value of more than \$100,000.
- The money or property involved is between \$50,000 and \$100,000 and the person has two or more prior convictions for committing or attempting to commit an offense.

Currently, there are two felonies for this kind of offense with the most severe punishment being a maximum of 10 years' imprisonment and/or a fine of up to \$15,000 or three times the value of the money or property involved, whichever is greater. This applies to cases involving money or property with a value of \$20,000 or more or lesser amounts with prior convictions.

House Bill 4727 would put the new felonies in the Code of Criminal Procedures (MCL 777.16i). Embezzlement of \$50,000 to \$100,000 or of \$20,000 to \$50,000 with prior convictions would be a Class C felony against property with a 15-year maximum sentence. A crime involving more than \$100,000 or \$50,000 to \$100,000 with prior convictions would be a Class B felony against property with a 20-year maximum sentence. House Bill 4727 is tie-barred to House Bill 4618.

BACKGROUND INFORMATION:

Advocates for the elderly say that elder abuse is a serious problem. The oldest and most dependent seniors are said to be the most frequent victims. Victims are reluctant to report abuse because they feel ashamed, embarrassed, humiliated, afraid, and they may even defend the abuser. Financial exploitation and fraud is the form of elder abuse most often reported to law enforcement (and is said to be the fastest growing form of abuse). Financial abuse is notoriously underreported. Current estimates put the overall reporting of financial abuse at only 25 percent of cases. Advocates say that family, friends, volunteers, caregivers and employees of financial institutions should learn to recognize the signs of elder abuse or exploitation, the questions to ask the victims to verify such abuse, and where to go for help from law enforcement. (Information derived from a publication from the Arizona Elder Abuse Coalition, entitled *Financial Exploitation of the Elderly: How Financial Institutions Can Help*.)

The bill sponsor has argued that "financial abuse can be just as devastating for a victim" as physical abuse. He said "our [senior] residents have worked and saved their whole lives and we need to give them all the financial protection they need." This legislation has been introduced to address this concern, and it would subject individuals with two or more prior convictions of lesser crimes to harsher penalties if the person steals or attempts to steal money or property from an older resident.

FISCAL IMPACT:

The bills' fiscal impact would depend on the extent to which they increased the severity of felony sentences. To the extent that more felons were sentenced to prison or were sentenced to prison for longer terms, the state could incur increased costs. The average appropriated cost of prison incarceration is roughly \$33,000 per prisoner per year, a figure that includes various fixed administrative and operational costs. To the extent to which offenders who received local sanctions were sentenced to longer periods of jail incarceration or probation supervision, counties or the state could incur additional costs. Counties could incur additional costs of jail incarceration, which vary by county. The state could experience additional costs of probation supervision; exclusive of the cost of electronic tether, parole and probation supervision averages about \$2,100 per supervised offender per year.

The 15-year felonies would be Class C crimes against property. Exclusive of sentences for habitual offenders, the guidelines-recommended minimum sentence for a Class C offense varies from 0 - 11 months, for which a non-prison sanction is required, to 62-114

months, for which a prison sentence is mandated. The 20-year felonies would be Class B crimes against property. Exclusive of sentences for habitual offenders, the guidelines-recommended minimum sentence for a Class B offense varies from 0-18 months, for which a non-prison sanction is required, to 117-160 months, for which a prison sentence is required.

Any increases in penal fine revenue could benefit local libraries, which are the constitutionally-designated recipients of such revenues.

Legislative Analyst: E. Best
Fiscal Analyst: Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.