

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER LXXI

PUBLIC RECORDS

750.491 Public records; disposal; removal, mutilation, or destruction; violation as misdemeanor; penalty.

Sec. 491. (1) All official books, papers, or records created by or received in any office or agency of this state or its political subdivisions are public property belonging to the people of this state. All such books, papers, or records must be disposed of only as provided in section 11 of the Michigan history center act, 2016 PA 470, MCL 399.811, section 2a of the records reproduction act, 1992 PA 116, MCL 24.402a, and sections 2137 and 2138 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2137 and 600.2138.

(2) An individual shall not willfully carry away, mutilate, or destroy the books, papers, records, or any part of a book, paper, or record described in subsection (1) and shall not retain and continue to hold the possession of those books, papers, or records, or parts of those books, papers, or records and refuse to deliver up those books, papers, records, or parts of those books, papers, or records to the proper officer having charge of the office to which those books, papers, or records belong upon demand being made by that officer or, if the office is defunct, the Michigan history center created in the Michigan history center act, 2016 PA 470, MCL 399.801 to 399.812. An individual who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 2 years or a fine of not more than \$1,000.00.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.491;—Am. 1952, Act 119, Eff. Sept. 18, 1952;—Am. 1964, Act 147, Eff. Aug. 28, 1964;—Am. 2017, Act 182, Eff. Feb. 19, 2018;—Am. 2020, Act 284, Eff. Mar. 24, 2021.

Compiler's note: For transfer of powers and duties of department of history, arts, and libraries regarding state archives program to department of natural resources, see E.R.O. No. 2009-26, compiled at MCL 399.752.

For the transfer of powers and duties related to the state archives program from the department of natural resources to the department of technology, management and budget, see E.R.O. 2023-2, compiled at MCL 388.1283.

Former law: See section 1 of Act 6 of 1851, being CL 1857, § 5906; CL 1871, § 7751; How., § 9347; CL 1897, § 11361; CL 1915, § 15079; CL 1929, § 17018; and Act 208 of 1875.

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.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.492;—Am. 1970, Act 109, Imd. Eff. July 23, 1970;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Former law: See sections 1 and 2 of Act 92 of 1899, being CL 1915, §§ 3449 and 3450; and CL 1929, §§ 2713 and 2714.

750.492a Placing misleading or inaccurate information in medical records or charts; alteration or destruction of medical records or charts; penalties; applicability of subsections (1) and (2); basis for civil action for damages not created.

Sec. 492a. (1) Except as otherwise provided in subsection (3), a health care provider or other person, knowing that the information is misleading or inaccurate, shall not intentionally, willfully, or recklessly place or direct another to place in a patient's medical record or chart misleading or inaccurate information regarding the diagnosis, treatment, or cause of a patient's condition. A violation of this subsection is punishable as follows:

(a) A health care provider who intentionally or willfully violates this subsection is guilty of a felony.

(b) A health care provider who recklessly violates this subsection 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.

(c) A person other than a health care provider who intentionally or willfully violates this subsection 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.

(d) A person other than a health care provider who recklessly violates this subsection is guilty of a misdemeanor.

(2) Except as otherwise provided in subsection (3), a health care provider or other person shall not intentionally or willfully alter or destroy or direct another to alter or destroy a patient's medical records or charts for the purpose of concealing his or her responsibility for the patient's injury, sickness, or death. A health care provider who violates this subsection is guilty of a felony. A person other than a health care provider who violates this subsection 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) Subsections (1) and (2) do not apply to either of the following:

(a) Destruction of a patient's original medical record or chart if all of the information contained in or on the medical record or chart is otherwise retained by means of mechanical or electronic recording, chemical reproduction, or other equivalent techniques that accurately reproduce all of the information contained in or on the original or by reproduction pursuant to the records media act that accurately reproduces all of the information contained in or on the original.

(b) Supplementation of information or correction of an error in a patient's medical record or chart in a manner that reasonably discloses that the supplementation or correction was performed and that does not conceal or alter prior entries.

(4) This section does not create or provide a basis for a civil cause of action for damages.

History: Add. 1986, Act 184, Eff. Mar. 31, 1987;—Am. 1992, Act 210, Imd. Eff. Oct. 5, 1992.