

# HOUSE BILL No. 5236

October 9, 1991, Introduced by Reps. Barns, Porreca, DeMars, Berman, Rocca, Kosteva and Hoffman and referred to the Committee on Senior Citizens and Retirement.

A bill to amend Act No. 328 of the Public Acts of 1931, entitled as amended

"The Michigan penal code,"

as amended, being sections 750.1 to 750.568 of the Michigan Compiled Laws, by adding section 411h.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Act No. 328 of the Public Acts of 1931, as  
2 amended, being sections 750.1 to 750.568 of the Michigan Compiled  
3 Laws, is amended by adding section 411h to read as follows:

4       SEC. 411H. (1) EXCEPT AS PROVIDED IN SUBSECTION (3), A  
5 PERSON WHO COMMITS OR ATTEMPTS TO COMMIT A FELONY IN WHICH THE  
6 VICTIM IS AN ELDERLY OR A HANDICAPPED PERSON IS GUILTY OF A  
7 FELONY AND SHALL BE PUNISHED BY IMPRISONMENT FOR 2 YEARS.

8       (2) EXCEPT AS PROVIDED IN SUBSECTION (4), A PERSON WHO  
9 COMMITS OR ATTEMPTS TO COMMIT A MISDEMEANOR IN WHICH THE VICTIM

1 IS AN ELDERLY OR A HANDICAPPED PERSON IS GUILTY OF A MISDEMEANOR  
2 AND SHALL BE PUNISHED BY IMPRISONMENT FOR 2 YEARS.

3 (3) FOR A SECOND CONVICTION UNDER SUBSECTION (1), THE PERSON  
4 SHALL BE IMPRISONED FOR 5 YEARS. FOR A THIRD OR SUBSEQUENT CON-  
5 VICTION UNDER SUBSECTION (1), THE PERSON SHALL BE IMPRISONED FOR  
6 10 YEARS.

7 (4) A PERSON WHO VIOLATES SUBSECTION (2) A SECOND OR SUBSE-  
8 QUENT TIME IS GUILTY OF A FELONY. FOR A SECOND CONVICTION UNDER  
9 SUBSECTION (2), THE PERSON SHALL BE IMPRISONED FOR 2 YEARS. FOR  
10 A THIRD CONVICTION UNDER SUBSECTION (2), THE PERSON SHALL BE  
11 IMPRISONED FOR 5 YEARS. FOR A FOURTH OR SUBSEQUENT CONVICTION  
12 UNDER SUBSECTION (2), THE PERSON SHALL BE IMPRISONED FOR 10  
13 YEARS.

14 (5) A PERSON MAY BE CHARGED WITH AND CONVICTED OF A VIOLA-  
15 TION OF THIS SECTION IN ADDITION TO ANY CHARGE OR CONVICTION FOR  
16 THE UNDERLYING FELONY, MISDEMEANOR, OR ATTEMPT. THE TERM OF  
17 IMPRISONMENT PRESCRIBED BY THIS SECTION SHALL BE SERVED CONSECU-  
18 TIVELY WITH AND PRECEDING ANY TERM OF IMPRISONMENT IMPOSED FOR A  
19 CONVICTION OF THE UNDERLYING FELONY, MISDEMEANOR, OR ATTEMPT.

20 (6) THE MANDATORY TERM OF IMPRISONMENT IMPOSED FOR A VIOLA-  
21 TION OF THIS SECTION SHALL NOT BE SUSPENDED. A PERSON SENTENCED  
22 FOR A VIOLATION OF THIS SECTION SHALL NOT BE ELIGIBLE FOR PAROLE  
23 OR PROBATION DURING THE MANDATORY TERM OF IMPRISONMENT.

24 (7) AS USED IN THIS SECTION:

25 (A) "ELDERLY PERSON" MEANS AN INDIVIDUAL WHO IS 60 YEARS OF  
26 AGE OR OLDER.

1        (B) "HANDICAPPED PERSON" MEANS AN INDIVIDUAL WHO HAS A  
2 DETERMINABLE PHYSICAL OR MENTAL CHARACTERISTIC, WHICH MAY RESULT  
3 FROM DISEASE, INJURY, CONGENITAL CONDITION OF BIRTH, OR FUNC-  
4 TIONAL DISORDER, AND THAT SUBSTANTIALLY LIMITS 1 OR MORE OF THAT  
5 INDIVIDUAL'S MAJOR LIFE ACTIVITIES.

6        (C) "VICTIM" MEANS AN INDIVIDUAL WHO SUFFERS DIRECT OR  
7 THREATENED PHYSICAL, FINANCIAL, OR EMOTIONAL HARM AS A RESULT OF  
8 THE COMMISSION OF A CRIME.