

HOUSE BILL No. 6229

November 24, 1992, Introduced by Rep. Varga and referred to the Committee on Judiciary.

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 chapter XXA.

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 chapter XXA to read as follows:

4 CHAPTER XXA

5 SEC. 145M. AS USED IN THIS CHAPTER:

6 (A) "ADULT FOSTER CARE FACILITY" MEANS THAT TERM AS DEFINED
7 IN SECTION 3 OF THE ADULT FOSTER CARE FACILITY LICENSING ACT,
8 BEING SECTION 400.703 OF THE MICHIGAN COMPILED LAWS.

1 (B) "ADULT FOSTER CARE FACILITY LICENSING ACT" MEANS ACT NO.
2 218 OF THE PUBLIC ACTS OF 1979, BEING SECTIONS 400.701 TO 400.737
3 OF THE MICHIGAN COMPILED LAWS.

4 (C) "DEVELOPMENTAL DISABILITY" MEANS THAT TERM AS DEFINED IN
5 SECTION 500 OF THE MENTAL HEALTH CODE, BEING SECTION 330.1500 OF
6 THE MICHIGAN COMPILED LAWS.

7 (D) "FACILITY" MEANS AN ADULT FOSTER CARE FACILITY, A HOME
8 FOR THE AGED, A NURSING HOME, OR A FACILITY PROVIDING ADULT DAY
9 CARE FOR VULNERABLE ADULTS.

10 (E) "HOME FOR THE AGED" MEANS THAT TERM AS DEFINED IN SEC-
11 TION 20106 OF THE PUBLIC HEALTH CODE, BEING SECTION 333.20106 OF
12 THE MICHIGAN COMPILED LAWS.

13 (F) "MENTAL HEALTH CODE" MEANS ACT NO. 258 OF THE PUBLIC
14 ACTS OF 1974, BEING SECTIONS 330.1001 TO 330.2106 OF THE MICHIGAN
15 COMPILED LAWS.

16 (G) "MENTAL ILLNESS" MEANS THAT TERM AS DEFINED IN SECTION
17 400A OF THE MENTAL HEALTH CODE, BEING SECTION 330.1400A OF THE
18 MICHIGAN COMPILED LAWS.

19 (H) "NURSING HOME" MEANS THAT TERM AS DEFINED IN SECTION
20 20109 OF THE PUBLIC HEALTH CODE, BEING SECTION 333.20109 OF THE
21 MICHIGAN COMPILED LAWS.

22 (I) "OMISSION" MEANS A FAILURE TO PROVIDE THE FOOD, MEDI-
23 CINE, CLOTHING, OR SHELTER NECESSARY FOR A VULNERABLE ADULT'S
24 WELFARE.

25 (J) "PERSON" MEANS AN INDIVIDUAL OR A FACILITY THAT CARES
26 FOR, HAS CUSTODY OF, OR HAS AUTHORITY OVER A VULNERABLE ADULT.

1 (K) "PHYSICAL HARM" MEANS ANY INJURY TO A VULNERABLE ADULT'S
2 PHYSICAL CONDITION.

3 (L) "RESIDENT" MEANS AN INDIVIDUAL WHO RESIDES IN AN ADULT
4 FOSTER CARE FACILITY, A HOME FOR THE AGED, OR A NURSING HOME.

5 (M) "SERIOUS PHYSICAL HARM" MEANS A TEMPORARY OR PERMANENT
6 PHYSICAL INJURY THAT CONSTITUTES SUBSTANTIAL BODILY DISFIGUREMENT
7 OR SERIOUSLY IMPAIRS THE FUNCTION OF A BODY ORGAN OR LIMB.

8 (N) "SERIOUS MENTAL HARM" MEANS A TEMPORARY OR PERMANENT
9 MENTAL INJURY THAT RESULTS IN A VISIBLY DEMONSTRABLE MANIFESTA-
10 TION OF A SUBSTANTIAL DISORDER OF THOUGHT OR MOOD THAT SIGNIFI-
11 CANTLY IMPAIRS JUDGMENT, BEHAVIOR, CAPACITY TO RECOGNIZE REALITY,
12 OR ABILITY TO COPE WITH THE ORDINARY DEMANDS OF LIFE.

13 (O) "VULNERABLE ADULT" MEANS AN INDIVIDUAL OVER THE AGE OF
14 18 WHO, BECAUSE OF AGE, DEVELOPMENTAL DISABILITY, MENTAL ILLNESS,
15 OR PHYSICAL HANDICAP, REQUIRES SUPERVISION OR ASSISTANCE WITH
16 OR MORE OF THE ACTIVITIES OF DAILY LIFE.

17 SEC. 145N. (1) A PERSON WHO KNOWINGLY OR INTENTIONALLY
18 CAUSES SERIOUS PHYSICAL HARM OR SERIOUS MENTAL HARM TO A VULNERA-
19 BLE ADULT IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR
20 NOT MORE THAN 15 YEARS.

21 (2) A PERSON WHOSE RECKLESS OMISSION OR ACT CAUSES SERIOUS
22 PHYSICAL HARM OR SERIOUS MENTAL HARM TO A VULNERABLE ADULT IS
23 GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 4
24 YEARS.

25 (3) A PERSON WHO KNOWINGLY OR INTENTIONALLY CAUSES PHYSICAL
26 HARM TO A VULNERABLE ADULT IS GUILTY OF A MISDEMEANOR PUNISHABLE
27 BY IMPRISONMENT FOR NOT MORE THAN 2 YEARS.

1 (4) A PERSON WHOSE RECKLESS OMISSION OR ACT CAUSES PHYSICAL
2 HARM TO A VULNERABLE ADULT IS GUILTY OF A MISDEMEANOR PUNISHABLE
3 BY IMPRISONMENT FOR NOT MORE THAN 1 YEAR.

4 SEC. 1450. A FACILITY OR A PERSON ACTING ON BEHALF OF A
5 FACILITY WHO VIOLATES THE ADULT FOSTER CARE FACILITY LICENSING
6 ACT OR THE PUBLIC HEALTH CODE AND WHOSE VIOLATION IS A PROXIMATE
7 CAUSE OF DEATH OR SERIOUS PHYSICAL OR MENTAL HARM TO A RESIDENT
8 OF THAT FACILITY IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT
9 FOR NOT MORE THAN 5 YEARS OR A FINE OF NOT LESS THAN \$50,000.00
10 OR MORE THAN \$75,000.00, OR BOTH.

11 SEC. 145P. (1) A PERSON WHO KNOWINGLY DOES 1 OR MORE OF THE
12 FOLLOWING IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT
13 FOR NOT MORE THAN 4 YEARS OR A FINE OF NOT LESS THAN \$10,000.00
14 OR MORE THAN \$25,000.00, OR BOTH:

15 (A) COMMINGLES, BORROWS, OR PLEDGES FUNDS OF A RESIDENT THAT
16 ARE REQUIRED BY LAW OR ADMINISTRATIVE RULE TO BE HELD IN A SEPA-
17 RATE TRUST ACCOUNT.

18 (B) INTERFERES WITH OR ATTEMPTS TO INTERFERE WITH OR
19 OBSTRUCTS OR ATTEMPTS TO OBSTRUCT AN INVESTIGATION UNDER THE
20 ADULT FOSTER CARE FACILITY LICENSING ACT OR THE PUBLIC HEALTH
21 CODE.

22 (C) RETALIATES OR DISCRIMINATES AGAINST A RESIDENT OR AN
23 EMPLOYEE OF A FACILITY BECAUSE THE EMPLOYEE OR RESIDENT DOES 1 OR
24 MORE OF THE FOLLOWING:

25 (i) PROVIDES INFORMATION TO A STATE OR LOCAL OFFICIAL
26 ENFORCING THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE
27 PUBLIC HEALTH CODE.

1 (ii) MAKES A COMPLAINT AGAINST A FACILITY.

2 (iii) INITIATES, PARTICIPATES IN, OR TESTIFIES IN AN ADMIN-
3 ISTRATIVE, CIVIL, OR CRIMINAL ACTION AGAINST A FACILITY.

4 (D) FILES FALSE, INCOMPLETE, OR MISLEADING INFORMATION
5 REQUIRED BY THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE
6 PUBLIC HEALTH CODE.

7 (E) FAILS OR REFUSES TO FILE OR TO REPORT INFORMATION
8 REQUIRED BY THE ADULT FOSTER CARE FACILITY LICENSING ACT OR THE
9 PUBLIC HEALTH CODE.

10 (F) PLACES AN INDIVIDUAL IN OR REFERS AN INDIVIDUAL TO A
11 FACILITY THAT IS OPERATING WITHOUT A LICENSE.

12 (2) A PERSON WHO HAS BEEN CONVICTED OF VIOLATING THIS SEC-
13 TION WHO COMMITS A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION
14 IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE
15 THAN 5 YEARS OR A FINE OF NOT LESS THAN \$25,000.00 OR MORE THAN
16 \$75,000.00, OR BOTH.