



HOUSE BILL No. 5569

May 19 1994 Introduced by Reps LeTarte Gernant Weeks Baade Dobb Martin Voorhees Nye Horton Crissman Alley Bobier DeLange Pitoniak Munsell Sikkema Agee Griffin Anthony Galloway Hammerstrom Dolan Jaye and McNutt and referred to the Committee on Senior Citizens

A bill to amend Act No 331 of the Public Acts of 1976
entitled
Michigan consumer protection act
as amended being sections 445 901 to 445 922 of the Michigan
Compiled Laws by adding section 11a

THE PEOPLE OF THE STATE OF MICHIGAN ENACT

1 Section 1 Act No 331 of the Public Acts of 1976 as
2 amended being sections 445 901 to 445 922 of the Michigan
3 Compiled Laws is amended by adding section 11a to read as
4 follows

5 SEC 11A (1) IN ADDITION TO ANY OTHER PENALTIES OR REME-
6 DIES PROVIDED BY THIS ACT IF A PERSON IS FOUND TO HAVE VIOLATED
7 THIS ACT AND THE VIOLATION WAS COMMITTED AGAINST AN ELDER OR
8 DISABLED PERSON THEN THE PERSON SHALL BE ASSESSED BY THE COURT A
9 CIVIL FINE OF NOT MORE THAN \$10 000 00 FOR EACH VIOLATION ANY

1 FINES COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN
2 THE STATE TREASURY AND CREDITED TO THE ELDER AND DISABLED VICTIMS
3 FUND CREATED PURSUANT TO SUBSECTION (4)

4 (2) IN DETERMINING WHETHER TO IMPOSE A CIVIL FINE UNDER THIS
5 SECTION THE COURT SHALL CONSIDER THE EXTENT TO WHICH 1 OR MORE
6 OF THE FOLLOWING FACTORS ARE PRESENT

7 (A) WHETHER THE DEFENDANT S CONDUCT WAS IN DISREGARD OF THE
8 RIGHTS OF THE ELDER OR DISABLED PERSONS

9 (B) WHETHER THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE
10 DEFENDANT S CONDUCT WAS DIRECTED TO AN ELDER PERSON OR DISABLED
11 PERSON

12 (C) WHETHER THE ELDER OR DISABLED PERSON WAS MORE VULNERABLE
13 TO THE DEFENDANT S CONDUCT BECAUSE OF AGE, POOR HEALTH INFIRMI-
14 TY IMPAIRED UNDERSTANDING RESTRICTED MOBILITY OR DISABILITY
15 IHAN OTHER PERSONS AND WHETHER THE ELDER OR DISABLED PERSON ACTU-
16 ALLY SUFFERED SUBSTANTIAL PHYSICAL EMOTIONAL OR ECONOMIC DAMAGE
17 RESULTING FROM THE DEFENDANT S CONDUCT

18 (D) WHETHER THE DEFENDANT S CONDUCT CAUSED AN ELDER OR DIS-
19 ABLED PERSON TO SUFFER ANY OF THE FOLLOWING

20 (1) MENTAL OR EMOTIONAL ANGUISH

21 (11) LOSS OF OR ENCUMBRANCE UPON A PRIMARY RESIDENCE OF THE
22 ELDER OR DISABLED PERSON

23 (111) LOSS OF OR ENCUMBRANCE UPON THE ELDER OR DISABLED
24 PERSON S PRINCIPAL EMPLOYMENT OR PRINCIPAL SOURCE OF INCOME

25 (1v) LOSS OF FUNDS RECEIVED UNDER A PENSION OR RETIREMENT
26 PLAN OR A GOVERNMENT BENEFITS PROGRAM

1 (v) LOSS OF PROPERTY SET ASIDE FOR RETIREMENT OR FOR
2 PERSONAL OR FAMILY CARE AND MAINTENANCE

3 (v2) LOSS OF ASSETS ESSENTIAL TO THE HEALTH AND WELFARE OF
4 THE ELDER OR DISABLED PERSON

5 (E) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE

6 (3) THE ATTORNEY GENERAL SHALL DEVELOP AND IMPLEMENT A
7 STATEWIDE EDUCATIONAL PROGRAM TO INFORM ELDER PERSONS AND DIS-
8 ABLED PERSONS, LAW ENFORCEMENT AGENCIES, THE JUDICIAL SYSTEM
9 SOCIAL SERVICES PROFESSIONALS AND THE GENERAL PUBLIC AS TO THE
10 PREVALENCE AND PREVENTION OF CONSUMER CRIMES AGAINST ELDER AND
11 DISABLED PERSONS THE PROVISIONS OF THIS ACT AND THE PENALTIES
12 FOR VIOLATIONS OF THIS ACT AND THE REMEDIES AVAILABLE FOR VICTIMS
13 OF VIOLATIONS

14 (4) THE ELDER AND DISABLED VICTIMS FUND IS CREATED WITHIN
15 THE STATE TREASURY

16 (5) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS
17 FROM ANY SOURCE FOR DEPOSIT INTO THE FUND THE STATE TREASURER
18 SHALL DIRECT THE INVESTMENT OF THE FUND THE STATE TREASURER
19 SHALL CREDIT TO THE FUND INTEREST AND EARNINGS FROM FUND
20 INVESTMENTS THE STATE TREASURER SHALL ANNUALLY PRESENT TO THE
21 DEPARTMENT OF ATTORNEY GENERAL AN ACCOUNTING OF THE AMOUNT OF
22 MONEY IN THE FUND

23 (6) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
24 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND

25 (7) THE ATTORNEY GENERAL SHALL EXPEND MONEY FROM THE FUND
26 FOR THE INVESTIGATION AND PROSECUTION OF VIOLATIONS OF THIS ACT

1 AGAINST ELDER AND DISABLED PERSONS AND TO IMPLEMENT A CONSUMER
2 EDUCATION PROGRAM AS REQUIRED BY SUBSECTION (3)

3 (8) AS USED IN THIS SECTION

4 (A) DISABLED MEANS A PERSON WHO HAS A PHYSICAL OR MENTAL
5 IMPAIRMENT THAT SUBSTANTIALLY LIMITS THE PERSON'S MAJOR LIFE
6 ACTIVITIES

7 (B) ELDER MEANS A PERSON WHO IS 60 YEARS OF AGE OR OLDER

8 (C) FUND MEANS THE ELDER AND DISABLED VICTIMS FUND CREATED
9 PURSUANT TO SUBSECTION (4)