



# HOUSE BILL No. 4278

February 1, 1995, Introduced by Reps. LeTarte, DeHart, Kukuk, Hill, McBryde, Voorhees, Bodem, Hammerstrom, Green, Weeks, Middleton, Martinez, Dalman, Tesanovich, Brewer, Gernaat, Hanley, Baade, Oxender and Pitoniak and referred to the Committee on Senior Citizens and Veterans Affairs.

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 IMPOSING ANY OTHER PENALTY OR  
6 PROVIDING ANY OTHER REMEDY UNDER THIS ACT, A COURT MAY IMPOSE A  
7 CIVIL FINE OF NOT MORE THAN \$10,000.00 AGAINST A PERSON FOR EACH  
8 ACT OR OMISSION OF THAT PERSON THAT VIOLATES THIS ACT AND  
9 ADVERSELY AFFECTS AN OLDER OR DISABLED PERSON. A FINE COLLECTED

1 UNDER THIS SECTION SHALL BE DEPOSITED IN THE STATE TREASURY AND  
2 CREDITED TO THE OLDER AND DISABLED VICTIMS FUND CREATED IN SUB-  
3 SECTION (4).

4 (2) IN DETERMINING WHETHER TO IMPOSE A CIVIL FINE UNDER THIS  
5 SECTION, THE COURT SHALL CONSIDER THE FOLLOWING:

6 (A) WHETHER THE DEFENDANT'S CONDUCT WAS IN DISREGARD OF THE  
7 RIGHTS OF AN OLDER OR DISABLED PERSON.

8 (B) WHETHER THE DEFENDANT KNEW OR SHOULD HAVE KNOWN THAT THE  
9 DEFENDANT'S CONDUCT WAS DIRECTED TO AN OLDER OR DISABLED PERSON.

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

16 (D) WHETHER THE DEFENDANT'S CONDUCT CAUSED AN OLDER OR DIS-  
17 ABLED PERSON TO SUFFER ANY OF THE FOLLOWING:

18 (i) MENTAL OR EMOTIONAL ANGUISH.

19 (ii) LOSS OF OR ENCUMBRANCE UPON A PRIMARY RESIDENCE OF THE  
20 OLDER OR DISABLED PERSON.

21 (iii) LOSS OF OR ENCUMBRANCE UPON THE OLDER OR DISABLED  
22 PERSON'S PRINCIPAL EMPLOYMENT OR PRINCIPAL SOURCE OF INCOME.

23 (iv) LOSS OF FUNDS RECEIVED UNDER A PENSION OR RETIREMENT  
24 PLAN OR A GOVERNMENT BENEFITS PROGRAM.

25 (v) LOSS OF PROPERTY SET ASIDE FOR RETIREMENT OR FOR PER-  
26 SONAL OR FAMILY CARE AND MAINTENANCE.

1       (vi) LOSS OF ASSETS ESSENTIAL TO THE HEALTH AND WELFARE OF  
2 THE OLDER OR DISABLED PERSON.

3       (E) ANY OTHER FACTORS THE COURT DEEMS APPROPRIATE.

4       (3) THE OFFICE OF SERVICES TO THE AGING SHALL DEVELOP AND  
5 IMPLEMENT A STATEWIDE EDUCATIONAL PROGRAM TO INFORM OLDER PERSONS  
6 AND DISABLED PERSONS, LAW ENFORCEMENT AGENCIES, THE JUDICIAL  
7 SYSTEM, SOCIAL SERVICES PROFESSIONALS, AND THE GENERAL PUBLIC OF  
8 BOTH OF THE FOLLOWING:

9       (A) THE PREVALENCE AND PREVENTION OF CONSUMER CRIMES AGAINST  
10 OLDER AND DISABLED PERSONS.

11       (B) THE PROVISIONS OF THIS ACT, INCLUDING THE PENALTIES FOR  
12 VIOLATIONS OF THIS ACT AND THE REMEDIES AVAILABLE FOR VICTIMS OF  
13 THOSE VIOLATIONS.

14       (4) THE OLDER 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 OFFICE OF SERVICES TO THE AGING 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 OFFICE OF SERVICES TO THE AGING SHALL EXPEND MONEY  
26 FROM THE FUND TO IMPLEMENT A CONSUMER EDUCATION PROGRAM AS

1 REQUIRED BY SUBSECTION (3) AND TO PROVIDE OTHER SERVICES AS  
2 REQUIRED BY LAW.

3 (8) AS USED IN THIS SECTION:

4 (A) "DISABLED PERSON" MEANS A PERSON WHO HAS A DISABILITY AS  
5 THAT TERM IS DEFINED IN SECTION 216 OF TITLE II OF THE SOCIAL  
6 SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 416.

7 (B) "FUND" MEANS THE OLDER AND DISABLED VICTIMS FUND CREATED  
8 PURSUANT TO SUBSECTION (4).

9 (C) "OFFICE OF SERVICES TO THE AGING" MEANS THE ENTITY CRE-  
10 ATED BY SECTION 5 OF THE OLDER MICHIGANIANS ACT, ACT NO. 180 OF  
11 THE PUBLIC ACTS OF 1981, BEING SECTION 400.585 OF THE MICHIGAN  
12 COMPILED LAWS.

13 (D) "OLDER PERSON" MEANS A PERSON WHO IS 60 YEARS OF AGE OR  
14 OLDER.