

Act No. 75
Public Acts of 1997
Approved by the Governor
July 17, 1997
Filed with the Secretary of State
July 17, 1997
EFFECTIVE DATE: July 17, 1997

**STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1997**

Introduced by Senators Rogers, Steil, Schuette, Stille, Bullard, Carl, Gougeon and Van Regenmorter

ENROLLED SENATE BILL No. 592

AN ACT to amend 1931 PA 328, entitled "An act to revise, consolidate, codify and add to the statutes relating to crimes; to define crimes and prescribe the penalties therefor; to provide for restitution under certain circumstances; to provide for the competency of evidence at the trial of persons accused of crime; to provide immunity from prosecution for certain witnesses appearing at such trials; and to repeal certain acts and parts of acts inconsistent with or contravening any of the provisions of this act," by amending sections 159g and 411j (MCL 750.159g and 750.411j), section 159g as added by 1995 PA 187 and section 411j as amended by 1996 PA 80.

The People of the State of Michigan enact:

Sec. 159g. As used in this chapter, "racketeering" means committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving any of the following:

- (a) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, concerning tobacco product taxes, or section 9 of former 1947 PA 265, concerning cigarette taxes.
- (b) A violation of section 11151(3) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.
- (c) A felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.7766a, concerning controlled substances or androgenic anabolic steroids.
- (d) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.
- (e) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.
- (f) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.
- (g) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.
- (h) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.
- (i) A felony violation of section 72, 73, 74, 75, or 77, concerning arson.
- (j) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, and property.
- (k) A violation of section 110 or 110a, concerning breaking and entering or home invasion.
- (l) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.
- (m) A violation of section 120a, concerning jury tampering.

- (n) A violation of section 145c, concerning child sexually abusive activity or material.
- (o) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.
- (p) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.
- (q) A felony violation of chapter XXXIII, concerning explosives and bombs.
- (r) A violation of section 213, concerning extortion.
- (s) A felony violation of section 218, concerning false pretenses.
- (t) A felony violation of section 223(2), 224(1)(a), (b), or (c), 224b, 224c, 224e(1), 226, 227, 234a, 234b, or 237a, concerning firearms or dangerous weapons.
- (u) A felony violation of chapter XLI, concerning forgery and counterfeiting.
- (v) A violation of section 271, 272, 273, or 274, concerning securities fraud.
- (w) A violation of section 300a, concerning food stamps or coupons or access devices.
- (x) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.
- (y) A violation of section 316 or 317, concerning murder.
- (z) A violation of section 330, 331, or 332, concerning horse racing.
- (aa) A violation of section 349, 349a, or 350, concerning kidnapping.
- (bb) A felony violation of chapter LII, concerning larceny.
- (cc) A violation of section 411k, concerning money laundering.
- (dd) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.
- (ee) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.
- (ff) A violation of section 529, 529a, 530, or 531, concerning robbery.
- (gg) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.
- (hh) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.
- (ii) An offense committed within this state or another state that constitutes racketeering activity as defined in section 1961(1) of title 18 of the United States Code, 18 U.S.C. 1961.
- (jj) An offense committed within this state or another state in violation of a law of the United States that is substantially similar to a violation listed in subdivisions (a) through (hh).
- (kk) An offense committed in another state in violation of a statute of that state that is substantially similar to a violation listed in subdivisions (a) through (hh).

Sec. 411j. As used in this section and sections 411k to 411q:

- (a) “Controlled substance offense” means a felony violation of part 74 or section 17766a of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461 and 333.17766a, concerning controlled substances or androgenic anabolic steroids.
- (b) “Knowingly”, in the case of a corporation, means with the approval or prior actual knowledge of the board of directors, a majority of the directors, or persons who together hold a majority of the voting ownership interests in the corporation. In determining whether a majority of the directors approved of or had knowledge of the activity, a director who was not aware of the activity due to his or her own negligence or other fault is regarded as having had knowledge of the activity. This subdivision does not limit the liability of any individual officer, employee, director, or stockholder of a corporation.
- (c) “Financial transaction” means a purchase, sale, loan, pledge, gift, transfer, delivery, exchange, or other disposition of a monetary instrument or other property and, with respect to a financial institution, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.
- (d) “Financial institution” means 1 or more of the following, if located in or doing business in this state:
 - (i) An insured bank, as defined in section 3(h) of the federal deposit insurance act, 12 U.S.C. 1813(h).
 - (ii) A commercial bank or trust company.
 - (iii) A private banker.
 - (iv) An agency or branch of a foreign bank.
 - (v) A savings and loan institution.
 - (vi) A thrift institution.

- (vii) A credit union.
 - (viii) A broker or dealer registered with the securities and exchange commission under the securities exchange act of 1934, chapter 404, 48 Stat. 881.
 - (ix) A broker or dealer in securities or commodities.
 - (x) An investment banker or investment company.
 - (xi) A currency exchange.
 - (xii) An insurer, redeemer, or cashier of traveler's checks, checks, or money orders.
 - (xiii) An operator of a credit card system.
 - (xiv) An insurance company.
 - (xv) A dealer in precious metals, stones, or jewels.
 - (xvi) A pawnbroker.
 - (xvii) A loan, finance, or mortgage company.
 - (xviii) A travel agency.
 - (xix) A licensed sender of money.
 - (xx) A telegraph company.
- (e) "Monetary instrument" means coin or currency of the United States or another country, or group of countries, a traveler's check, personal check, bank check, money order, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.
- (f) "Proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained through the commission of a specified criminal offense, including any appreciation in the value of the monetary instrument or property.
- (g) "Specified criminal offense" means any of the following:
- (i) A felony violation of section 8 of the tobacco products tax act, 1993 PA 327, MCL 205.428, or section 9 of former 1947 PA 265, concerning cigarette taxes.
 - (ii) A violation of section 11151 of part 111 (hazardous waste management) of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11151, or section 48(3) of former 1979 PA 64, concerning felonious disposal of hazardous waste.
 - (iii) A controlled substance offense.
 - (iv) A felony violation of section 60 of the social welfare act, 1939 PA 280, MCL 400.60, concerning welfare fraud.
 - (v) A violation of section 4, 5, or 7 of the medicaid false claim act, 1977 PA 72, MCL 400.604, 400.605, and 400.607, concerning medicaid fraud.
 - (vi) A felony violation of section 18 of the Michigan gaming control and revenue act, the Initiated Law of 1996, MCL 432.218, concerning the business of gaming.
 - (vii) A violation of section 409 of the uniform securities act, 1964 PA 265, MCL 451.809, concerning securities fraud.
 - (viii) A violation of section 5 or 7 of 1978 PA 33, MCL 722.675 and 722.677, concerning the display or dissemination of obscene matter to minors.
 - (ix) A felony violation of section 72, 73, 74, or 75, concerning arson.
 - (x) A violation of section 93, 94, 95, or 96, concerning bank bonds, bills, notes, or property.
 - (xi) A violation of section 117, 118, 119, 120, 121, or 124, concerning bribery.
 - (xii) A violation of section 120a, concerning jury tampering.
 - (xiii) A violation of section 145c, concerning child sexually abusive activity or material.
 - (xiv) A felony violation of section 157n, 157p, 157q, 157r, 157s, 157t, or 157u, concerning credit cards or financial transaction devices.
 - (xv) A violation of section 159i, concerning racketeering.
 - (xvi) A felony violation of section 174, 175, 176, 180, 181, or 182, concerning embezzlement.
 - (xvii) A felony violation of chapter XXXIII, concerning explosives or bombs.
 - (xviii) A violation of section 213, concerning extortion.
 - (xix) A felony violation of section 218, concerning false pretenses.
 - (xx) A felony violation of chapter XLI, concerning forgery or counterfeiting.
 - (xxi) A violation of section 271, 272, 273, or 274, concerning securities fraud.
 - (xxii) A violation of section 301, 302, 303, 304, 305, 305a, or 313, concerning gambling.

- (xxiii) A violation of section 316 or 317 concerning murder.
- (xxiv) A violation of section 330, 331, or 332, concerning horse racing.
- (xxv) A violation of section 349, 349a, or 350, concerning kidnapping.
- (xxvi) A felony violation of chapter LII, concerning larceny.
- (xxvii) A violation of section 422, 423, 424, or 425, concerning perjury or subornation of perjury.
- (xxviii) A violation of section 452, 455, 457, 458, or 459, concerning prostitution.
- (xxix) A violation of section 529, 530, or 531, concerning robbery.
- (xxx) A felony violation of section 535, 535a, or 536a, concerning stolen, embezzled, or converted property.
- (xxxi) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.
- (xxxii) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (i) to (xxxi).

(h) "Substituted proceeds of a specified criminal offense" means any monetary instrument or other real, personal, or intangible property obtained or any gain realized by the sale or exchange of proceeds of a specified criminal offense.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Mary Anne Bell

Clerk of the House of Representatives.

Approved

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Governor.