

SENATE BILL NO. 470

March 24, 1999, Introduced by Senators JOHNSON, ROGERS and
HAMMERSTROM and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled
"The Michigan penal code,"
by amending sections 125, 157, 446, 453, and 461 (MCL 750.125,
750.157, 750.446, 750.453, and 750.461); and to repeal acts and
parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 125. (1) ~~Bribery of agents, servants, etc., and~~
2 ~~deception of their principals, etc.--It shall be unlawful for~~
3 ~~any~~ A person ~~to~~ SHALL NOT give, offer, or promise ~~to an~~
4 ~~agent, employe or servant of another or any other person, any~~ A
5 commission, gift, or gratuity ~~whatever,~~ TO AN AGENT, EMPLOYEE,
6 OR OTHER PERSON or DO OR OFFER to do an act beneficial to ~~such~~
7 AN agent, ~~employe or servant or another~~ EMPLOYEE, OR OTHER
8 PERSON with intent to influence the action of ~~such~~ THE agent ~~,~~
9 ~~employe or servant~~ OR EMPLOYEE in relation to his OR HER

1 principal's ~~—~~, OR employer's ~~or master's~~ business. ~~—; or for~~
2 ~~an~~

3 (2) AN agent ~~—, employe or servant to~~ OR EMPLOYEE SHALL NOT
4 request or accept ~~for himself or another any~~ A commission,
5 gift, or gratuity, or A promise ~~to make any~~ OF A commission,
6 gift, or gratuity, ~~to himself~~ FOR THE AGENT, EMPLOYEE, or
7 another PERSON or the doing of an act OR OFFER OF AN ACT benefi-
8 cial to ~~himself~~ THE AGENT, EMPLOYEE, or another ~~—~~ PERSON
9 according to ~~any~~ AN agreement or understanding between ~~him~~
10 THE AGENT OR EMPLOYEE and any other person ~~to the effect~~ that
11 ~~he~~ THE AGENT OR EMPLOYEE shall act in ~~any~~ A particular manner
12 in relation to his OR HER principal's ~~—~~, OR employer's ~~or~~
13 ~~master's~~ business. ~~It shall be unlawful for any~~

14 (3) A person ~~to~~ SHALL NOT use or ~~to~~ give to an agent,
15 ~~employe or servant or another, or for any~~ EMPLOYEE, OR OTHER
16 PERSON, AND AN agent ~~—, employe or servant, to~~ OR EMPLOYEE SHALL
17 NOT use, approve, or certify, with intent to deceive the princi-
18 pal ~~—~~, OR employer, ~~or master, any~~ A receipt, account,
19 invoice, or other document ~~in respect of~~ CONCERNING which the
20 principal ~~—~~, OR employer ~~or master~~ is interested ~~—, which~~
21 THAT contains ~~any~~ A statement ~~which~~ THAT is MATERIALLY false,
22 erroneous, or defective ~~in any material particular~~ or ~~which~~
23 omits to state fully ~~the fact of~~ any commission, money,
24 property, or other valuable thing ~~having been~~ given or agreed
25 to be given to ~~such~~ THE agent ~~—, employe or servant~~ OR
26 EMPLOYEE.

1 (4) Evidence ~~shall~~ IS not ~~be~~ admissible in any
2 proceeding or prosecution under this section to show that a gift
3 or acceptance of ~~any~~ A commission, money, property, or other
4 valuable thing ~~as is mentioned~~ DESCRIBED in this section is
5 customary in ~~any~~ A business, trade, or calling. ~~, nor shall~~
6 ~~the~~ THE customary nature of ~~such~~ A transaction ~~be any~~ IS NOT
7 A defense in ~~any such~~ A proceeding or prosecution UNDER THIS
8 SECTION.

9 (5) In ~~any~~ A proceeding or prosecution under this section,
10 ~~no~~ A person shall NOT be excused from attending and testifying
11 or from producing documentary evidence ~~in obedience~~ PURSUANT to
12 ~~the~~ A subpoena ~~of the court~~ on the ground ~~or for the reason~~
13 that the testimony or evidence ~~, documentary or otherwise,~~
14 ~~required of him~~ may tend to ~~criminate~~ INCRIMINATE him OR HER
15 or subject him OR HER to a penalty or forfeiture. TESTIMONY,
16 EVIDENCE, OR OTHER INFORMATION COMPELLED UNDER THIS SECTION AND
17 ANY INFORMATION DERIVED DIRECTLY OR INDIRECTLY FROM THAT TESTIMO-
18 NY, EVIDENCE, OR OTHER INFORMATION SHALL NOT BE USED AGAINST THE
19 WITNESS IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN
20 A PROSECUTION FOR PERJURY OR OTHERWISE FAILING TO TESTIFY OR
21 PRODUCE EVIDENCE AS REQUIRED. ~~But no natural person shall be~~
22 ~~prosecuted or subjected to any penalty or forfeiture for or on~~
23 ~~account of any transaction, matter or thing concerning which he~~
24 ~~may testify when compelled to do so over his objection, or~~
25 ~~produce evidence, documentary or otherwise, in obedience to the~~
26 ~~subpoena: Provided, That no natural person so testifying shall~~

1 ~~be exempt from prosecution and punishment for perjury committed~~
2 ~~in so testifying.~~

3 ~~The first person committing an offense within the purview of~~
4 ~~this section who shall report the facts, under oath, to the pros-~~
5 ~~ecuting attorney of the county where the offense is triable and~~
6 ~~who shall give evidence tending to the conviction of any other~~
7 ~~person charged with an offense under this section shall be~~
8 ~~granted full immunity from prosecution under this section with~~
9 ~~respect to the offense reported.~~

10 (6) ~~Any~~ A person who ~~shall violate any of the provisions~~
11 ~~of~~ VIOLATES this section ~~shall be~~ IS guilty of a misdemeanor
12 ~~,~~ punishable by imprisonment ~~in the county jail~~ for not more
13 than 1 year or ~~by~~ a fine of not more than ~~500 dollars~~
14 \$500.00, OR BOTH.

15 Sec. 157. ~~Incriminating testimony and immunity of witness~~
16 ~~except for perjury--No~~ A person shall NOT be excused from
17 attending and testifying ~~,~~ or producing any books, papers, or
18 other documents before ~~any~~ A court or magistrate ~~,~~ upon ~~any~~
19 AN investigation, proceeding, or trial ~~,~~ for a violation ~~of~~
20 ~~any of the provisions~~ of this chapter ~~,~~ upon ON the ground ~~or~~
21 ~~for the reason~~ that the testimony or evidence ~~,~~ ~~documentary or~~
22 ~~otherwise, required of him~~ may tend to degrade or incriminate
23 ~~him; but no person shall be prosecuted or subjected to any pen-~~
24 ~~alty or forfeiture for or on account of any transaction, matter~~
25 ~~or thing concerning which he may so testify or produce evidence,~~
26 ~~documentary or otherwise, and no testimony so given or produced~~
27 ~~shall be received against him upon any criminal investigation,~~

~~1 proceeding or trial: Provided, That no person so testifying~~
~~2 shall be exempt from prosecution and punishment for perjury com-~~
~~3 mitted in so testifying~~ THE PERSON. TESTIMONY, EVIDENCE, OR
4 OTHER INFORMATION COMPELLED UNDER THIS SECTION AND ANY INFORMA-
5 TION DERIVED DIRECTLY OR INDIRECTLY FROM THAT TESTIMONY, EVI-
6 DENCE, OR OTHER INFORMATION SHALL NOT BE USED AGAINST THE WITNESS
7 IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN A PROS-
8 ECUTION FOR PERJURY OR OTHERWISE FAILING TO TESTIFY OR PRODUCE
9 EVIDENCE AS REQUIRED.

10 Sec. 446. ~~Incriminating testimony and immunity of witness~~
~~11 except for perjury--No~~ A person shall NOT be excused from
12 attending and testifying ~~—~~ or producing any books, papers, or
13 other documents before ~~any~~ A court or magistrate ~~—~~ upon ~~any~~
14 AN investigation, proceeding, or trial ~~—~~ for a violation ~~of~~
15 ~~any of the provisions~~ of this chapter ~~—~~ upon ON the ground ~~or~~
16 ~~for the reason~~ that the testimony or evidence ~~—~~ documentary or
17 otherwise, required of him may tend to degrade or incriminate
18 him; but no person shall be prosecuted or subjected to any pen-
19 alty or forfeiture for or on account of any transaction, matter
20 or thing concerning which he may so testify or produce evidence,
21 documentary or otherwise, and no testimony so given or produced
22 shall be received against him upon any criminal investigation,
23 proceeding or trial: Provided, That no person so testifying
24 shall be exempt from prosecution and punishment for perjury com-
25 mitted in so testifying THE PERSON. TESTIMONY, EVIDENCE, OR
26 OTHER INFORMATION COMPELLED UNDER THIS SECTION AND ANY
27 INFORMATION DERIVED DIRECTLY OR INDIRECTLY FROM THAT TESTIMONY,

1 EVIDENCE, OR OTHER INFORMATION SHALL NOT BE USED AGAINST THE
2 WITNESS IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN
3 A PROSECUTION FOR PERJURY OR OTHERWISE FAILING TO TESTIFY OR
4 PRODUCE EVIDENCE AS REQUIRED.

5 Sec. 453. ~~Incriminating testimony and immunity of witness~~
6 ~~except for perjury--No~~ A person shall NOT be excused from
7 attending and testifying ~~—~~ or producing any books, papers, or
8 other documents before ~~any~~ A court or magistrate ~~—~~ upon ~~any~~
9 AN investigation, proceeding, or trial ~~—~~ for a violation ~~of~~
10 ~~any of the provisions~~ of this chapter ~~—~~ ~~upon~~ ON the ground ~~or~~
11 ~~for the reason~~ that the testimony or evidence ~~—~~ ~~documentary or~~
12 ~~otherwise, required of him~~ may tend to degrade or incriminate
13 ~~him; but no person shall be prosecuted or subjected to any pen-~~
14 ~~alty or forfeiture for or on account of any transaction, matter~~
15 ~~or thing concerning which he may so testify or produce evidence,~~
16 ~~documentary or otherwise, and no testimony so given or produced~~
17 ~~shall be received against him upon any criminal investigation,~~
18 ~~proceeding or trial: Provided, That no person so testifying~~
19 ~~shall be exempt from prosecution and punishment for perjury com-~~
20 ~~mitted in so testifying~~ THE PERSON. TESTIMONY, EVIDENCE, OR
21 OTHER INFORMATION COMPELLED UNDER THIS SECTION AND ANY INFORMA-
22 TION DERIVED DIRECTLY OR INDIRECTLY FROM THAT TESTIMONY, EVI-
23 DENCE, OR OTHER INFORMATION SHALL NOT BE USED AGAINST THE WITNESS
24 IN A CRIMINAL CASE, EXCEPT FOR IMPEACHMENT PURPOSES OR IN A PROS-
25 ECUTION FOR PERJURY OR OTHERWISE FAILING TO TESTIFY OR PRODUCE
26 EVIDENCE AS REQUIRED.

1 Sec. 461. ~~Competency of female as witness though wife of~~
2 ~~accused--Any such female person~~ AN INDIVIDUAL referred to in
3 ~~the 6 preceding sections shall~~ 455 TO 459 MAY be a competent
4 witness in ~~any~~ A prosecution under this chapter to testify for
5 or against the accused as to any transaction or as to any conver-
6 sation with the accused or by ~~him~~ THE ACCUSED with another
7 person ~~or persons~~ in ~~her~~ THE INDIVIDUAL'S presence ~~, not~~
8 ~~withstanding her having~~ REGARDLESS OF WHETHER THE INDIVIDUAL
9 married the accused before or after the violation ~~of any of the~~
10 ~~provisions of this chapter,~~ OR whether THE INDIVIDUAL IS called
11 as a witness during the existence of the marriage or after its
12 dissolution. ~~No complaint shall be entertained or warrant~~
13 ~~issued against any female giving testimony in any proceeding~~
14 ~~under this chapter by reason of or arising from any testimony so~~
15 ~~given by such female witness, nor shall any such testimony or any~~
16 ~~part thereof be used in any way in connection with or as a basis~~
17 ~~for a criminal prosecution against said witness. No such female~~
18 ~~witness shall be permitted to refuse to answer any question~~
19 ~~involving a violation of the provisions of this chapter on the~~
20 ~~ground that such answer might tend to incriminate or degrade said~~
21 ~~witness: Provided, That no person so testifying shall be exempt~~
22 ~~from prosecution and punishment for perjury committed in so~~
23 ~~testifying.~~

24 Enacting section 1. Section 334 of the Michigan penal code,
25 1931 PA 328, MCL 750.334, is repealed.