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House Bill 4260 (Substitute H-1 as passed by the House)
Sponsor: Representative William Van Regenmorter
House Committee: Criminal Justice
Senate Committee: Judiciary

Date Completed: 6-28-04

CONTENT

The bill would amend the Michigan Penal Code to prohibit any person, rather than a "person in a relationship of trust", from embezzling the money or property of a vulnerable adult; and revise the definition of "vulnerable adult".

The Penal Code prescribes penalties for a person in a relationship of trust with a vulnerable adult who, through fraud, deceit, misrepresentation, or unjust enrichment obtains or uses or attempts to obtain or use the vulnerable adult's money or property to benefit that person directly or indirectly. The bill would delete from that provision "in a relationship of trust with a vulnerable adult", and extend the criminal penalties to anyone who obtained or used a vulnerable adult's money or property in the prohibited manner. The bill also would prohibit obtaining or using a vulnerable adult's money or property through coercion.

Currently, "vulnerable adult" means an individual, 18 years old or over, who, because of age, developmental disability, mental illness, or disability, whether or not determined by a court to be an incapacitated individual in need of protection, lacks the cognitive skills required to manage his or her property. Under the bill, that term would include an adult with any other physical or mental disability or illness, and would encompass those who lack the interest or ability, as well as those who lack the cognitive skills, required to manage some or all of their own property.

"Person in a relationship of trust" means "a person who is a caregiver, relative by blood, marriage, or adoption, household member, court appointed fiduciary, or other person who is entrusted with or has assumed responsibility for the management of the vulnerable adult's money or property". The bill would delete that definition.

The bill would take effect on July 1, 2004.

MCL 750.174a

BACKGROUND

The penalties for a person in a relationship of trust who obtains, uses, or attempts to obtain or use a vulnerable adult's money or property were added to the Penal Code by Public Act 222 of 2000. They are based on a graduated sentencing structure that imposes more serious penalties for greater values of money or property or for repeat convictions, as shown in [Table 1](#).

Table 1

Value of Money or Property	Offense	Maximum Sentence	
		Fine	Imprisonment
Under \$200	Misdemeanor	\$500	93 days
\$200 or more but < \$1,000; or < \$200 + 1 or more priors	Misdemeanor	\$2,000	1 year
\$1,000 or more but < \$20,000; or \$200 but < \$1,000 + 1 or more priors*	Felony	\$10,000	5 years
\$20,000 or more; or \$1,000 or more but < \$20,000 + 2 or more priors*	Felony	\$15,000	10 years
* For purposes of this sentence, a prior conviction does not include a conviction for a violation or attempted violation involving money or property valued at less than \$200.			

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. According to the Department of Corrections Statistical Report, in 2001, the most recent year for which felony disposition data are available, there were no offenders convicted of this offense. By expanding the number of potential offenders to include any person rather than just a person in a relationship of trust with a vulnerable adult, the bill could increase the number of people convicted of the offense, thereby increasing State and local corrections costs. The bill also could increase corrections costs by expanding the offense to include coercion. Local units incur the costs of misdemeanor probation and incarceration in a local facility, both of which vary by county. The State incurs the cost of felony probation at an average annual cost of \$1,800, as well as the cost of incarceration in a State facility at an average annual cost of \$28,000.

Fiscal Analyst: Bethany Wicksall

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