

# SENATE BILL No. 907

October 20, 2009, Introduced by Senator HUNTER and referred to the Committee on Judiciary.

A bill to amend 1931 PA 328, entitled  
"The Michigan penal code,"  
by amending sections 145o and 145p (MCL 750.145o and 750.145p), as  
added by 1994 PA 149.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 145o. An operator of an unlicensed facility that is  
2       subject to licensure, or an employee or an individual acting on  
3       behalf of an unlicensed facility that is subject to licensure, who  
4       violates the adult foster care facility licensing act or part 213,  
5       215, or 217 of the public health code or rules promulgated pursuant  
6       to ~~to~~ **UNDER** the adult foster care facility licensing act or part 213,  
7       215, or 217 of the public health code and whose violation is a  
8       proximate cause of the death of a vulnerable adult is guilty of a  
9       felony punishable by imprisonment for not more than ~~5~~ **15** years or a

1 fine of not more than \$75,000.00, or both.

2 Sec. 145p. (1) A caregiver, other person with authority over a  
3 vulnerable adult, or a licensee who intentionally does 1 or more of  
4 the following is guilty of a misdemeanor punishable by imprisonment  
5 for not more than 2 years or a fine of not more than \$25,000.00, or  
6 both:

7 (a) Commingles, borrows, or pledges funds of a resident that  
8 are required by law or administrative rule to be held in a separate  
9 trust account.

10 (b) Interferes with or obstructs an investigation under the  
11 adult foster care facility licensing act, part 213, 215, or 217 of  
12 the public health code, or section 11b of the social welfare act,  
13 ~~being section 400.11b of the Michigan Compiled Laws~~ **MCL 400.11B.**

14 (c) Files information required by the adult foster care  
15 facility licensing act or part 213, 215, or 217 of the public  
16 health code that is false or misleading.

17 (2) ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3), A**  
18 caregiver, other person with authority over a vulnerable adult, or  
19 a licensee who intentionally retaliates or discriminates against a  
20 resident because the resident does 1 or more of the following is  
21 guilty of a misdemeanor punishable by imprisonment for not more  
22 than 2 years or a fine of not more than \$25,000.00, or both:

23 (a) Provides information to a state or local official  
24 enforcing the adult foster care facility licensing act or part 213,  
25 215, or 217 of the public health code.

26 (b) Makes a complaint against a facility.

27 (c) Initiates, participates in, or testifies in an

1 administrative or criminal action against a facility or a civil  
2 suit related to the criminal action.

3 (3) A CAREGIVER, OTHER PERSON WITH AUTHORITY OVER A VULNERABLE  
4 ADULT, OR LICENSEE WHO INTENTIONALLY RETALIATES OR DISCRIMINATES  
5 AGAINST A RESIDENT BECAUSE THE RESIDENT INTERFERES WITH OR  
6 OBSTRUCTS AN INVESTIGATION UNDER THE ADULT FOSTER CARE FACILITY  
7 LICENSING ACT OR SECTION 11B OF THE SOCIAL WELFARE ACT, MCL  
8 400.11B, IS GUILTY OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT  
9 MORE THAN 4 YEARS OR A FINE OF NOT MORE THAN \$50,000.00, OR BOTH.

10 (4) ~~(3)~~—A caregiver, other person with authority over a  
11 vulnerable adult, or a licensee who intentionally retaliates or  
12 discriminates against an employee because the employee does 1 or  
13 more of the following is guilty of a misdemeanor punishable by  
14 imprisonment for not more than 1 year or a fine of not more than  
15 \$10,000.00, or both:

16 (a) Provides information to a state or local official  
17 enforcing the adult foster care facility licensing act or part 213,  
18 215, or 217 of the public health code.

19 (b) Makes a complaint against a facility.

20 (c) Initiates, participates in, or testifies in an  
21 administrative or criminal action against a facility or a civil  
22 suit related to the criminal action.

23 (5) ~~(4)~~—Subsection ~~(3)~~—(4) does not preclude an employer from  
24 taking reasonable and appropriate disciplinary action against an  
25 employee.

26 (6) ~~(5)~~—A caregiver, other person with authority over a  
27 vulnerable adult, or a licensee who has been convicted of violating

1 this section who commits a second or subsequent violation of this  
2 section is guilty of a felony punishable by imprisonment for not  
3 more than 5 years or a fine of not more than \$75,000.00, or both.