

THE MICHIGAN PENAL CODE (EXCERPT)

Act 328 of 1931

CHAPTER LX

MISCELLANEOUS

750.409 Repealed. 2002, Act 210, Imd. Eff. Apr. 29, 2002.

Compiler's note: The repealed section pertained to taunting or accusing one of having been a convict or jail inmate.

750.409a Expired. 1984, Act 407, Eff. May 1, 1985.

Compiler's note: The expired section pertained to polygraph examinations of unemployed persons.

750.409b Ransomware; possession; use; prohibition; violation as felony; penalty; "ransomware" defined.

Sec. 409b. (1) A person shall not knowingly possess ransomware with the intent to use or employ that ransomware for the purpose of introduction into the computer, computer data, computer system, or computer network of another person, without authorization of the other person. A person who violates this section is guilty of a felony punishable by imprisonment for not more than 3 years.

(2) As used in this section, "ransomware" means a computer or data contaminant, encryption, or lock that is placed or introduced without authorization into a computer, computer system, or computer network and that restricts access by an authorized person to a computer, computer data, computer system, or computer network in a manner that results in the person responsible for the placement or introduction of the ransomware demanding payment of money or other consideration to remove the computer contaminant, or restore access to the computer, computer system, computer network, or data. Ransomware does not include authentication required to upgrade or access purchased content.

History: Add. 2018, Act 95, Eff. July 1, 2018.

750.410 Solicitation of personal injury claims; validity of contracts; furnishing, selling, or buying information as to identity or treatment of patient.

Sec. 410. (1) A person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or any of the officers, agents, servants, employees, or members of any such person, firm, copartnership, association, or organization of any kind, either incorporated or unincorporated, or of any division, bureau, or committee of that association or organization, either incorporated or unincorporated, who shall directly or indirectly, individually or by agent, servant, employee, or member, solicit a person injured as the result of an accident, his or her administrator, executor, heirs, or assigns, his or her guardian, or members of the family of the injured person, for the purpose of representing that person in making a claim for damages or prosecuting an action or causes of action arising out of a personal injury claim against any other person, firm, or corporation, or to employ counsel for the purpose of that solicitation, is guilty of a misdemeanor, and shall upon conviction thereof, if a natural person, be punished by a fine not to exceed \$750.00 or by imprisonment for not more than 6 months, or both. The same penalties apply upon conviction to a member of a copartnership, or an officer or agent of a corporation, association, or other organization, or an officer or agent, who shall consent to, participate in, or aid or abet a violation of this section upon the part of the copartnership of which he or she is a member, or of the corporation, association, or organization of which he or she is such an officer or agent. A contract entered into as a result of such a solicitation is void. This subsection does not apply to an unsolicited contract entered into by a person, firm, or corporation with an attorney duly admitted to practice law in this state.

(2) Except as otherwise provided by law, administrative rule, or valid legal process, any person, firm or corporation who, for any consideration and without the prior written permission of a patient or his or her personal representative, furnishes, receives, buys, offers to buy, sells, or offers to sell, directly or indirectly, the identity of the patient or any information concerning the treatment of the patient, including, but not limited to, information contained in the files or records of a health care facility, health care provider, or insurance company, is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than \$750.00, or both.

History: 1931, Act 328, Eff. Sept. 18, 1931;—Am. 1947, Act 123, Eff. Oct. 11, 1947;—CL 1948, 750.410;—Am. 1975, Act 125, Imd. Eff. July 1, 1975;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

Constitutionality: The limitation in this section to prosecution of personal injury claims does not deny equal protection of the law. Further, while the statute may be unconstitutional because of overbreadth, the overbreadth can be cured by a limiting construction. Woll v. Attorney General, 409 Mich 500; 297 NW2d 578 (1980).

Former law: See sections 1 and 2 of Act 280 of 1925, being CL 1929, §§ 13607 and 13608.

750.410a Conspiring to commit person to institution for mental incompetents deemed felony.

Sec. 410a. Any person who shall conspire with another person or persons to commit any person to an institution for mental incompetents without just and reasonable grounds therefor shall be deemed guilty of a felony.

History: Add. 1949, Act 108, Eff. Sept. 23, 1949.

750.410b Contact with individual or family member sustaining personal injury as result of motor vehicle accident; prohibition; exceptions; definitions; violation as misdemeanor; costs.

Sec. 410b. (1) A person shall not intentionally contact any individual that the person knows has sustained a personal injury as a direct result of a motor vehicle accident, or an immediate family member of that individual, with a direct solicitation to provide a service until the expiration of 30 days after the date of that motor vehicle accident. This subsection does not apply if either of the following circumstances exists:

(a) The individual or his or her immediate family member has requested the contact from that person.

(b) The person is an employee or agent of an insurance company and the person is contacting the individual or his or her family member on behalf of that insurance company to adjust a claim. This subdivision does not apply to a referral of the individual or his or her immediate family member to an attorney or to any other person for representation by an attorney.

(2) As used in this section:

(a) "Direct solicitation to provide a service" means a verbal or written solicitation or offer, including by electronic means, made to the injured individual or a family member seeking to provide a service for a fee or other remuneration that is based upon the knowledge or belief that the individual has sustained a personal injury as a direct result of a motor vehicle accident and that is directed toward that individual or a family member.

(b) "Immediate family member" means the individual's spouse, parent, child, or sibling.

(c) "Personal injury" means any physical or mental injury, including wrongful death.

(3) A person who violates this section is guilty of a misdemeanor punishable as follows:

(a) Except as provided in subsection (b), by a fine of not more than \$30,000.00.

(b) For a second or subsequent violation of this section, by imprisonment for not more than 1 year or a fine of not more than \$60,000.00, or both.

(4) The court may order an individual convicted of violating this section to pay the costs of prosecution as provided in the code of criminal procedure, 1927 PA 175, MCL 760.1 to 777.69.

History: Add. 2013, Act 219, Eff. Jan. 1, 2014.

750.410c Distributing, delivering, selling, or possessing a drug-masking product; prohibition; violation as a misdemeanor.

Sec. 410c. (1) A person shall not distribute, deliver, sell, or possess with intent to distribute, deliver, or sell a drug-masking product.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) As used in this section:

(a) "Drug-masking product" includes synthetic urine, human urine, a substance designed to be added to human urine, or a substance designed to be added to or used on human hair or oral fluid, for the purpose of defrauding an alcohol or a drug screening test.

(b) "Synthetic urine" means a substance that is designed to simulate the composition, chemical properties, physical appearance, or physical properties of human urine.

History: Add. 2022, Act 147, Imd. Eff. July 19, 2022.

750.411 Hospitals, pharmacies, physicians; duty to report injuries; violation as misdemeanor; immunity; limitations.

Sec. 411. (1) A person, firm, or corporation conducting a hospital or pharmacy in this state, the person managing or in charge of a hospital or pharmacy, or the person in charge of a ward or part of a hospital to which 1 or more persons come or are brought suffering from a wound or other injury inflicted by means of a knife, gun, pistol, or other deadly weapon, or by other means of violence, has a duty to report that fact immediately, both by telephone and in writing, to the chief of police or other head of the police force of the village or city in which the hospital or pharmacy is located, or to the county sheriff if the hospital or pharmacy is located outside the incorporated limits of a village or city. The report shall state the name and residence of

the person, if known, his or her whereabouts, and the cause, character, and extent of the injuries and may state the identification of the perpetrator, if known.

(2) A physician or surgeon who has under his or her charge or care a person suffering from a wound or injury inflicted in the manner described in subsection (1) has a duty to report that fact in the same manner and to the same officer as required by subsection (1).

(3) A person, firm, or corporation that violates this section is guilty of a misdemeanor.

(4) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, a person who makes a report in good faith under subsection (1) or (2) or who cooperates in good faith in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is immune from civil or criminal liability that would otherwise be incurred by making the report or cooperating in the investigation or civil or criminal proceeding. A person who makes a report under subsection (1) or (2) or who cooperates in an investigation, civil proceeding, or criminal proceeding conducted as a result of such a report is presumed to have acted in good faith. The presumption created by this subsection may be rebutted only by clear and convincing evidence.

(5) The immunity from civil and criminal liability granted under subsection (4) extends only to the actions described in subsection (4) and does not extend to another act or omission that is negligent or that amounts to professional malpractice, or both, and that causes personal injury or death.

(6) The physician-patient privilege created under section 2157 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2157, a health professional-patient privilege created under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, and any other health professional-patient privilege created or recognized by law do not apply to a report made under subsection (1) or (2), are not valid reasons for a failure to comply with subsection (1) or (2), and are not a defense to a misdemeanor charge filed under this section.

History: 1931, Act 328, Eff. Sept. 18, 1931;—CL 1948, 750.411;—Am. 2000, Act 339, Eff. Apr. 1, 2001.

750.411a False report of crime or report of medical or other emergency; violation; penalty; payment of costs by juvenile; jurisdiction; definitions.

Sec. 411a. (1) Except as otherwise provided in subsections (2) and (3), a person who intentionally makes a false report of the commission of a crime, or intentionally causes a false report of the commission of a crime to be made, to a peace officer, police agency of this state or of a local unit of government, 9-1-1 operator, or any other governmental employee or contractor or employee of a contractor who is authorized to receive reports of a crime, knowing the report is false, is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) through (e), if the report is a false report of a misdemeanor, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) Except as provided in subdivisions (c) through (e), if the report is a false report of a felony, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(c) Except as provided in subdivisions (d) and (e), if the false report results in a response to address the reported crime and a person incurs physical injury as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$20,000.00, or both.

(d) If the false report results in a response to address the reported crime and a person incurs serious impairment of a body function as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$25,000.00, or both.

(e) If the false report results in a response to address the reported crime and a person is killed as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$25,000.00 or more than \$50,000.00, or both.

(2) A person shall not do either of the following:

(a) Knowingly make a false report of a violation or attempted violation of chapter XXXIII or section 327, 328, 397a, or 436 and communicate or cause the communication of the false report to any other person, knowing the report to be false.

(b) Threaten to violate chapter XXXIII or section 327, 328, 397a, or 436 and communicate or cause the communication of the threat to any other person.

(3) A person who violates subsection (2) is guilty of a felony punishable as follows:

(a) Subject to subsection (1)(c) through (e), for a first conviction under subsection (2), by imprisonment for

not more than 4 years or a fine of not more than \$2,000.00, or both.

(b) Subject to subsection (1)(d) and (e), for a second or subsequent conviction under subsection (2), imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(4) A person shall not intentionally make or intentionally cause to be made a false report of a medical or other emergency to a peace officer, police agency of this state or of a local unit of government, firefighter or fire department of this state or a local unit of government of this state, 9-1-1 operator, medical first responder, or any governmental employee or contractor or employee of a contractor who is authorized to receive reports of medical or other emergencies. A person who violates this subsection is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) through (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) Except as provided in subdivisions (c) and (d), if the false report results in a response to address the reported medical or other emergency and a person incurs physical injury as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$20,000.00, or both.

(c) If the false report results in a response to address the reported medical or other emergency and a person incurs serious impairment of a body function as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$25,000.00, or both.

(d) If the false report results in a response to address the reported crime and a person is killed as a proximate result of lawful conduct arising out of that response, the person responsible for the false report is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not less than \$25,000.00 or more than \$50,000.00, or both.

(5) The court may order a person convicted under subsection (2) or (4) to pay to the state or a local unit of government the costs of responding to the false report or threat including, but not limited to, use of police, fire, medical, or other emergency response vehicles and teams, under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f, unless otherwise expressly provided for in this section.

(6) If the person ordered to pay costs under subsection (5) is a juvenile under the jurisdiction of the family division of the circuit court under chapter 10 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1001 to 600.1043, all of the following apply:

(a) If the court determines that the juvenile is or will be unable to pay all of the costs ordered, after notice to the juvenile's parent or parents and an opportunity for the parent or parents to be heard, the court may order the parent or parents having supervisory responsibility for the juvenile, at the time of the acts upon which the order is based, to pay any portion of the costs ordered that is outstanding. An order under this subsection does not relieve the juvenile of his or her obligation to pay the costs as ordered, but the amount owed by the juvenile shall be offset by any amount paid by his or her parent. As used in this subsection, "parent" does not include a foster parent.

(b) If the court orders a parent to pay costs under subdivision (a), the court shall take into account the financial resources of the parent and the burden that the payment of the costs will impose, with due regard to any other moral or legal financial obligations that the parent may have. If a parent is required to pay the costs under subdivision (a), the court shall provide for payment to be made in specified installments and within a specified period of time.

(c) A parent who has been ordered to pay the costs under subdivision (a) may petition the court for a modification of the amount of the costs owed by the parent or for a cancellation of any unpaid portion of the parent's obligation. The court shall cancel all or part of the parent's obligation due if the court determines that payment of the amount due will impose a manifest hardship on the parent.

(7) A violation or attempted violation of this section occurs if the communication of the false report originates in this state, is intended to terminate in this state, or is intended to terminate with a person who is in this state.

(8) A violation or attempted violation of this section may be prosecuted in any jurisdiction in which the communication originated or terminated.

(9) As used in this section:

(a) "Local unit of government" means:

(i) A city, village, township, or county.

(ii) A local or intermediate school district.

(iii) A public school academy.

(iv) A community college.

(b) "Medical first responder" means that term as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906.

(c) "Serious impairment of a body function" means that term as defined in section 395.

(d) "State" includes, but is not limited to, a state institution of higher education.

History: Add. 1941, Act 24, Eff. Jan. 10, 1942;—CL 1948, 750.411a;—Am. 1958, Act 58, Eff. Sept. 13, 1958;—Am. 1996, Act 303, Eff. Jan. 1, 1997;—Am. 2000, Act 370, Eff. Apr. 1, 2001;—Am. 2002, Act 672, Eff. Mar. 31, 2003;—Am. 2004, Act 104, Eff. July 1, 2004;—Am. 2012, Act 330, Eff. Jan. 1, 2013.

750.411b Excess fees to members of legislature, for services.

Sec. 411b. It shall be unlawful for any person after he has been elected or while he is a member of the state legislature to be employed by any person, firm, association or corporation who shall pay or agree to pay for the services rendered or to be rendered any moneys or other valuable consideration in excess of the reasonable value of such service if the same was performed by a person not a member of the legislature when such person, firm, association or corporation will directly or indirectly benefit from the passage of any bill or law or the defeat of any bill or law by the state legislature whether the subject matter of the employment is related to proposed legislation or not. It shall be unlawful for any person who is a member of the legislature to accept payment for any services which he shall perform exclusively in connection with the passage or defeat of any bill, act or amendment thereto.

Any person violating any of the provisions of this section shall be guilty of a felony.

History: Add. 1945, Act 146, Eff. Sept. 6, 1945;—CL 1948, 750.411b.

750.411c Asphyxia or death from submersion in water, reports, investigations, penalty.

Sec. 411c. (1) Every physician or surgeon, having under his care a person who suffers from asphyxia or dies due to submersion in water, shall report same to any peace officer, the nearest state police post or the sheriff of the county in which the injury or death occurred. Every coroner or medical examiner who completes a death certificate attributing death to drowning shall make a like report to the appropriate officers hereinabove named.

(2) The officer receiving the report shall investigate the circumstances surrounding the injury or death and shall submit a complete report to the director of state police on forms prescribed by him. The department of natural resources shall receive from the director of state police a copy of the officer's report where the asphyxia or death occurred in waters under the jurisdiction of that department.

(3) Any person violating any provision of this section shall be guilty of a misdemeanor.

History: Add. 1962, Act 164, Eff. Mar. 28, 1963;—Am. 1969, Act 201, Eff. Mar. 20, 1970.

750.411d Requesting assistance of ambulance service or advanced mobile emergency care service with intent not to use assistance as misdemeanor; penalty.

Sec. 411d. A person who, with the intent not to use the assistance, knowingly causes or makes a request for the assistance of an ambulance service or an advanced mobile emergency care service is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

History: Add. 1980, Act 490, Eff. Mar. 31, 1981;—Am. 2002, Act 672, Eff. Mar. 31, 2003.

750.411e Repealed. 2020, Act 367, Imd. Eff. Jan. 4, 2021.

Compiler's note: The repealed section pertained to prohibited conduct by an athlete agent.

750.411f Violations of Michigan employment security act; prosecution; effective date of section.

Sec. 411f. (1) Sections 157a, 174, 218, and 356 shall not apply to violations of the Michigan employment security act, Act No. 1 of the Public Acts of the Extra Session of 1936, being sections 421.1 to 421.73 of the Michigan Compiled Laws. A violation of Act No. 1 of the Public Acts of the Extra Session of 1936 that corresponds to the offenses described in sections 157a, 174, 218, and 356 shall only be prosecuted under the applicable sections of Act No. 1 of the Public Acts of the Extra Session of 1936.

(2) This section shall take effect April 1, 1992.

History: Add. 1991, Act 9, Eff. Apr. 1, 1992.

750.411g "Bed and breakfast" and "hotel" defined; prohibited acts; penalties; restitution for room damage; posting copy of section in conspicuous place; prosecution for underlying violation.

Sec. 411g. (1) As used in this section:

(a) "Bed and breakfast" means that term as defined in section 12901 of the public health code, Act No. 368

of the Public Acts of 1978, being section 333.12901 of the Michigan Compiled Laws.

(b) "Hotel" means that term as defined in section 1 of Act No. 188 of the Public Acts of 1913, being section 427.1 of the Michigan Compiled Laws.

(2) An individual or group that does 1 or more of the following on the premises or property of a hotel or bed and breakfast, or an individual or group that rents or leases a hotel room or bed and breakfast room with reason to know that another individual or group will do 1 or more of the following on the premises or property of a hotel or bed and breakfast, is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, community service, or by a fine of not more than \$500.00, or a combination of any of these punishments:

(a) Uses or possesses a controlled substance in violation of section 7403 or 7404 of the public health code, Act No. 368 of the Public Acts of 1978, being sections 333.7403 and 333.7404 of the Michigan Compiled Laws, or a local ordinance substantially similar to those sections.

(b) Consumes or possesses alcoholic liquor in violation of section 33b of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.33b of the Michigan Compiled Laws, or a local ordinance substantially similar to that section.

(c) Commits a violation of this section resulting in damage to the room or its furnishings.

(3) In a case involving damage to the room, a court may order the individual to pay restitution which may include the reasonable loss of revenue resulting from the inability to rent or lease the room during the period of time the room is being repaired.

(4) The owner or operator of the hotel or bed and breakfast shall post a copy of this section in a conspicuous place adjacent to the site of registration for a room or inside the room.

(5) This section does not prohibit the prosecution of an individual for the underlying violation which occurred on the premises or property of the hotel or bed and breakfast.

History: Add. 1991, Act 56, Eff. Jan. 1, 1992.

750.411h Stalking; definitions; violation as misdemeanor; penalties; probation; conditions; evidence of continued conduct as rebuttable presumption; additional penalties.

Sec. 411h. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

(b) "Dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(d) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(e) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(f) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(i) Following or appearing within the sight of that individual.

(ii) Approaching or confronting that individual in a public place or on private property.

(iii) Appearing at that individual's workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by that individual.

(v) Contacting that individual by telephone.

(vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(g) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of a crime as follows:

(a) Except as provided in subdivision (b), a misdemeanor punishable by imprisonment for not more than 1

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

(b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(c) If the victim and the individual are spouses or former spouses, have or have had a dating relationship, have or have had a child in common, or are residents or former residents of the same household, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(3) The court may place an individual convicted of violating this section on probation for a term of not more than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from having any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and if, determined appropriate by the court, to receive psychiatric, psychological, or social counseling at the individual's own expense.

(4) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(5) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for any contempt of court arising from the same conduct.

History: Add. 1992, Act 260, Eff. Jan. 1, 1993;—Am. 1997, Act 65, Eff. Mar. 31, 1998;—Am. 2023, Act 199, Eff. Feb. 13, 2024.

750.411i Definitions; aggravated stalking; circumstances; violation as felony; penalty; probation; additional conditions of probation; effect of continued course of conduct; rebuttable presumption; additional penalty.

Sec. 411i. (1) As used in this section:

(a) "Course of conduct" means a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose.

(b) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(c) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(d) "Harassment" means conduct directed toward a victim that includes, but is not limited to, repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include constitutionally protected activity or conduct that serves a legitimate purpose.

(e) "Stalking" means a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(f) "Unconsented contact" means any contact with another individual that is initiated or continued without that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(i) Following or appearing within the sight of that individual.

(ii) Approaching or confronting that individual in a public place or on private property.

(iii) Appearing at that individual's workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by that individual.

(v) Contacting that individual by telephone.

(vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

(g) "Victim" means an individual who is the target of a willful course of conduct involving repeated or continuing harassment.

(2) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

(a) At least 1 of the actions constituting the offense is in violation of a restraining order and the individual has received actual notice of that restraining order or at least 1 of the actions is in violation of an injunction or preliminary injunction.

(b) At least 1 of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.

(c) The course of conduct includes the making of 1 or more credible threats against the victim, a member of the victim's family, or another individual living in the same household as the victim.

(d) The individual has been previously convicted of a violation of this section or section 411h.

(3) Aggravated stalking is a felony punishable as follows:

(a) Except as provided in subdivision (b), by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(b) If the victim was less than 18 years of age at any time during the individual's course of conduct and the individual is 5 or more years older than the victim, by imprisonment for not more than 10 years or a fine of not more than \$15,000.00, or both.

(4) The court may place an individual convicted of violating this section on probation for any term of years, but not less than 5 years. If a term of probation is ordered, the court may, in addition to any other lawful condition of probation, order the defendant to do any of the following:

(a) Refrain from stalking any individual during the term of probation.

(b) Refrain from any contact with the victim of the offense.

(c) Be evaluated to determine the need for psychiatric, psychological, or social counseling and, if determined appropriate by the court, to receive psychiatric, psychological, or social counseling at his or her own expense.

(5) In a prosecution for a violation of this section, evidence that the defendant continued to engage in a course of conduct involving repeated unconsented contact with the victim after having been requested by the victim to discontinue the same or a different form of unconsented contact, and to refrain from any further unconsented contact with the victim, gives rise to a rebuttable presumption that the continuation of the course of conduct caused the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(6) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct or for contempt of court arising from the same conduct.

History: Add. 1992, Act 261, Eff. Jan. 1, 1993;—Am. 1997, Act 65, Eff. Mar. 31, 1998.

Constitutionality: Michigan's anti-stalking law is not an unconstitutionally vague threat to freedom of speech. *Staley v Jones*, 239 F3d 769 (CA 6, 2001).

750.411j Definitions.

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

(a) "Controlled substance offense" means a felony violation of part 74 of the public health code, 1978 PA 368, MCL 333.7401 to 333.7461, concerning controlled substances.

(b) "Cryptocurrency" means digital currency in which encryption techniques are used to regulate the generation of units of currency and verify the transfer of funds, and that operates independently of a central bank.

(c) "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.

(d) "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.

(e) "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 USC 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, 15 USC 78a to 78nn.
- (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.
- (f) "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, cryptocurrency, or investment security or negotiable instrument in bearer form or in any other form such that delivery is sufficient to pass title.
- (g) "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.
- (h) "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 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, 1996 IL 1, MCL 432.218, concerning the business of gaming.
 - (vii) A violation of section 409 of former 1964 PA 265, or section 508 of the uniform securities act (2002), 2008 PA 551, MCL 451.2508, 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 or 535a, concerning stolen, embezzled, or converted property.
- (xxxi) A violation of chapter LXXXIII-A, concerning terrorism.
- (xxxii) A violation of section 5 of 1984 PA 343, MCL 752.365, concerning obscenity.
- (xxxiii) A conspiracy, attempt, or solicitation to commit an offense listed in subparagraphs (i) to (xxxii).
- (i) "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.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994;—Am. 1996, Act 80, Imd. Eff. Feb. 27, 1996;—Am. 1997, Act 75, Imd. Eff. July 17, 1997;—Am. 2002, Act 136, Eff. Apr. 22, 2002;—Am. 2009, Act 82, Imd. Eff. Aug. 31, 2009;—Am. 2019, Act 171, Eff. Mar. 19, 2020.

750.411k Proceeds of criminal offense; receipt; acquisition; financial transaction.

Sec. 411k. (1) A person shall not knowingly receive or acquire a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following:

- (a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense.
- (b) The receipt or acquisition of the proceeds or substituted proceeds meets 1 or more of the following criteria:
 - (i) It will aid that person or another person in promoting or carrying on the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense.
 - (ii) It is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense or to avoid a transaction reporting requirement under state or federal law.

(2) A person shall not knowingly conduct, attempt to conduct, or participate in conducting or attempting to conduct a financial transaction involving a monetary instrument or other property that constitutes the proceeds or substituted proceeds of a specified criminal offense with prior actual knowledge of both of the following:

- (a) The monetary instrument or other property represents the proceeds or substituted proceeds of a criminal offense.
- (b) The financial transaction meets 1 or more of the following criteria:
 - (i) It will aid that person or another person in promoting or carrying on the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense.
 - (ii) It is designed, in whole or in part, to conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense, or to avoid a transaction reporting requirement under state or federal law.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411l Fourth-degree money laundering.

Sec. 411l. Except as otherwise provided in sections 411m to 411o, a person who violates section 411k is guilty of fourth-degree money laundering, a misdemeanor punishable by imprisonment for not more than 2 years, or by a fine of not more than \$10,000.00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation, whichever is greater, or both.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411m Third-degree money laundering.

Sec. 411m. (1) Except as otherwise provided in sections 411n and 411o, a person who violates section 411k is guilty of third-degree money laundering if the violation involves 1 of the following circumstances:

- (a) The value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10,000.00 or more.
- (b) The specified criminal offense involved in the violation is a controlled substance offense, or an attempt, solicitation, or conspiracy to commit a controlled substance offense.
- (c) The violation is committed with the intent to do 1 or more of the following:
 - (i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense.
 - (ii) Conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted

proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law.

(2) Third-degree money laundering is a felony punishable by imprisonment for not more than 5 years, or by a fine of not more than \$50,000.00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation, whichever is greater, or both.

(3) For purposes of this section, the \$10,000.00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411n Second-degree money laundering.

Sec. 411n. (1) Except as otherwise provided in section 411o, a person who violates section 411k is guilty of second-degree money laundering if the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10,000.00 or more and the violation involves either of the following:

(a) The specified criminal offense involved in the violation is a controlled substance offense, or an attempt, solicitation, or conspiracy to commit a controlled substance offense.

(b) The violation is committed with the intent to do 1 or more of the following:

(i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense.

(ii) Conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law.

(2) Second-degree money laundering is a felony punishable by imprisonment for not more than 10 years, or by a fine of not more than \$100,000.00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation, whichever is greater, or both.

(3) For purposes of this section, the \$10,000.00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411o First-degree money laundering.

Sec. 411o. (1) A person who violates section 411k is guilty of first-degree money laundering if the violation involves all of the following circumstances:

(a) The value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation is \$10,000.00 or more.

(b) The specified criminal offense involved in the violation is a controlled substance offense, or an attempt, solicitation, or conspiracy to commit a controlled substance offense.

(c) The violation is committed with the intent to do 1 or more of the following:

(i) Promote the commission of the criminal offense from which the proceeds or substituted proceeds were derived or any other criminal offense.

(ii) Conceal or disguise the nature, location, source, ownership, or control of the proceeds or substituted proceeds of the specified criminal offense or avoid a transaction reporting requirement under state or federal law.

(2) First-degree money laundering is a felony punishable by imprisonment for not more than 20 years, or by a fine of not more than \$500,000.00 or twice the value of the proceeds or substituted proceeds of the specified criminal offense involved in the violation, whichever is greater, or both.

(3) For purposes of this section, the \$10,000.00 threshold for the value of the proceeds or substituted proceeds of a specified criminal offense may be aggregated over a period of 30 calendar days.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411p Financial transaction involving proceeds of criminal offense; representation by law enforcement officer; felony; penalty; threshold amount.

Sec. 411p. (1) A person who conducts, attempts to conduct, or participates in conducting or attempting to conduct a financial transaction involving a monetary instrument or other property that a law enforcement officer represents to be the proceeds or substituted proceeds of a specified criminal offense is guilty of a felony, punishable as provided in subsection (2), if that person conducts, attempts to conduct, or participates in conducting or attempting to conduct the financial transaction with the intent to do 1 or more of the following:

(a) Promote the commission of a criminal offense.

(b) Conceal or disguise the nature, location, source, ownership, or control of a monetary instrument or other property believed to be the proceeds or substituted proceeds of a specified criminal offense or avoid a transaction reporting requirement under state or federal law.

(2) A person who violates subsection (1) is guilty of a felony punishable as follows:

(a) If the monetary instrument or other property involved in the transaction is represented to be the proceeds or substituted proceeds of a controlled substance offense and has a value of \$10,000.00 or more, by imprisonment for not more than 20 years or a fine of not more than \$500,000.00, or both.

(b) If the monetary instrument or other property involved in the transaction is represented to be the proceeds or substituted proceeds of a controlled substance offense or has a value of \$10,000.00 or more, by imprisonment for not more than 10 years or a fine of not more than \$100,000.00, or both.

(c) In all cases not described in subdivision (a) or (b), by imprisonment for not more than 5 years or a fine of not more than \$50,000.00, or both.

(3) For purposes of this section, a representation of a monetary instrument or other property as the proceeds or substituted proceeds of a specified criminal offense may be made by a person at the direction of, or with the approval of, a law enforcement official authorized to investigate or prosecute violations of this section.

(4) For purposes of this section, the \$10,000.00 threshold for the value of the monetary instrument or other property represented to be proceeds or substituted proceeds may be aggregated over a period of 30 calendar days.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411q Obtaining information and access to financial crimes enforcement network; disseminating information; authorization by federal government.

Sec. 411q. The director of the department of state police, in consultation with the attorney general, may enter into agreements with federal authorities, including the United States department of treasury and the United States department of justice, to obtain reported information and access to the financial crimes enforcement network and may disseminate information obtained to state and local law enforcement authorities as authorized by the federal government.

History: Add. 1994, Act 284, Eff. Oct. 1, 1994.

750.411r Unused property merchant; prohibited acts; violation as misdemeanor; definitions.

Sec. 411r. (1) Subject to subsection (2), an unused property merchant who sells or offers to sell 1 or more of the following items at an unused property market is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both:

(a) Food manufactured, packaged, and labeled specifically for sale or consumption by a child less than 2 years of age.

(b) A nonprescription drug that is past its expiration date.

(c) A medical device.

(2) Subsection (1) does not apply if the unused property merchant who sells or offers to sell an item described in subsection (1) is authorized in writing to sell the item at retail by the manufacturer of the item or the manufacturer's authorized distributor, the authorization states the person's name and the date the authorization expires, and the person provides for examination the authorization to any person at the unused property market who requests to examine the authorization. An unused property merchant who provides to another person for examination pursuant to this subsection an authorization that is forged, contains a false statement, or was obtained by fraud is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(3) An unused property merchant shall obtain and retain for not less than 2 years a purchase receipt for each item of new and unused property the unused property merchant acquires. The receipt must show the date of the acquisition, the name and address of the person from which the item was acquired, an identification and description of the item, and the price paid for the item. It is a misdemeanor, punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both, for an unused property merchant to knowingly do any of the following with respect to a receipt the unused property merchant is required to obtain and retain under this subsection:

(a) Falsify or obliterate a receipt.

(b) Refuse or fail to make a receipt available for inspection by a law enforcement official within a reasonable time after an inspection of the receipt is requested. This subdivision does not require an unused property merchant to possess the receipt on his or her person without reasonable notice.

(c) Destroy or dispose of a receipt before the end of the 2-year period described in this subsection.

(4) As used in this section:

(a) "Drug" means that term as defined in section 17703 of the public health code, 1978 PA 368, MCL 333.17703.

(b) "Medical device" means a device as that term is defined in section 17703 of the public health code, 1978 PA 368, MCL 333.17703.

(c) "New and unused property" means tangible personal property properly acquired by an unused property merchant directly from a producer, manufacturer, wholesaler, or retailer in the ordinary course of business, and that has never been used since its production or manufacture, or is in its original and unopened package or container if it was packaged when originally produced or manufactured. New and unused property does not include any of the following:

(i) A vehicle subject to the registration and certificate of title requirements of the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(ii) Firewood, ice, or livestock.

(iii) Unused antique property.

(iv) Arts, crafts, or similar merchandise sold or offered for sale by the individual who made or produced it or an employee or agent of the individual.

(v) Personal property sold for future delivery solely by use of a sample of the property, a catalog, or a brochure.

(d) "Nonprescription drug" means a nonnarcotic drug that may be sold without a prescription and that is labeled and packaged in compliance with applicable state or federal law. Nonprescription drug does not include vitamins or an herbal product, dietary supplement, or botanical extract.

(e) "Unused property market" means either an event at which 2 or more persons offer tangible personal property for sale or exchange, and a fee is charged for the sale or exchange of personal property or a fee is charged to prospective buyers for admission to the event, or an event at which more than 6 times a year 1 or more persons offer or display tangible personal property for sale or exchange. Unused property market includes, but is not limited to, events or locations commonly known as swap meets, indoor swap meets, or flea markets. Unused property market does not include any of the following:

(i) An industry or association trade show.

(ii) An event organized for the exclusive benefit of a community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, if no portion of any fee charged vendors or prospective purchasers and none of the gross receipts or net earnings of the sale or exchange of personal property benefit a private shareholder or person participating in the event or the organization of the event.

(iii) An event or location at which all of the personal property offered for sale or on display is new and each person selling, exchanging, offering, or displaying personal property for sale or exchange is the manufacturer of the property or an authorized representative or distributor of the manufacturer.

(f) "Unused property merchant" means a person who offers, displays, sells, or exchanges tangible personal property at an unused property market. Unused property merchant does not include a person who only sells tangible personal property for future delivery by sample, catalog, or brochure or a person who sells or offers to sell tangible personal property to a consumer pursuant to an individual invitation issued directly to the consumer at a location or premises owned or legally occupied by the person.

History: Add. 2000, Act 332, Eff. Feb. 1, 2001.

750.411s Posting message through electronic medium; prohibitions; penalty; exceptions; definitions.

Sec. 411s. (1) A person shall not post a message through the use of any medium of communication, including the internet or a computer, computer program, computer system, or computer network, or other electronic medium of communication, without the victim's consent, if all of the following apply:

(a) The person knows or has reason to know that posting the message could cause 2 or more separate noncontinuous acts of unconsented contact with the victim.

(b) Posting the message is intended to cause conduct that would make the victim feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(c) Conduct arising from posting the message would cause a reasonable person to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(d) Conduct arising from posting the message causes the victim to suffer emotional distress and to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for

not more than 2 years or a fine of not more than \$5,000.00, or both.

(b) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both:

(i) Posting the message is in violation of a restraining order and the person has received actual notice of that restraining order or posting the message is in violation of an injunction or preliminary injunction.

(ii) Posting the message is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.

(iii) Posting the message results in a credible threat being communicated to the victim, a member of the victim's family, or another individual living in the same household as the victim.

(iv) The person has been previously convicted of violating this section or section 145d, 411h, or 411i, or section 6 of 1979 PA 53, MCL 752.796, or a substantially similar law of another state, a political subdivision of another state, or of the United States.

(v) The victim is less than 18 years of age when the violation is committed and the person committing the violation is 5 or more years older than the victim.

(3) This section does not apply to an internet or computer network service provider who in good faith, and without knowledge of the specific nature of the message posted, provides the medium for disseminating information or communication between persons.

(4) The court may order a person convicted of violating this section to reimburse this state or a local unit of government of this state for the expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(5) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section.

(6) This section does not prohibit constitutionally protected speech or activity.

(7) A person may be prosecuted in this state for violating or attempting to violate this section only if 1 of the following applies:

(a) The person posts the message while in this state.

(b) Conduct arising from posting the message occurs in this state.

(c) The victim is present in this state at the time the offense or any element of the offense occurs.

(d) The person posting the message knows that the victim resides in this state.

(8) As used in this section:

(a) "Computer" means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(b) "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(c) "Computer program" means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(d) "Computer system" means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(e) "Credible threat" means a threat to kill another individual or a threat to inflict physical injury upon another individual that is made in any manner or in any context that causes the individual hearing or receiving the threat to reasonably fear for his or her safety or the safety of another individual.

(f) "Device" includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

(g) "Emotional distress" means significant mental suffering or distress that may, but does not necessarily, require medical or other professional treatment or counseling.

(h) "Internet" means that term as defined in section 230 of title II of the communications act of 1934, chapter 652, 110 Stat. 137, 47 U.S.C. 230.

(i) "Post a message" means transferring, sending, posting, publishing, disseminating, or otherwise communicating or attempting to transfer, send, post, publish, disseminate, or otherwise communicate information, whether truthful or untruthful, about the victim.

(j) "Unconsented contact" means any contact with another individual that is initiated or continued without

that individual's consent or in disregard of that individual's expressed desire that the contact be avoided or discontinued. Unconsented contact includes any of the following:

- (i) Following or appearing within sight of the victim.
- (ii) Approaching or confronting the victim in a public place or on private property.
- (iii) Appearing at the victim's workplace or residence.
- (iv) Entering onto or remaining on property owned, leased, or occupied by the victim.
- (v) Contacting the victim by telephone.
- (vi) Sending mail or electronic communications to the victim through the use of any medium, including the internet or a computer, computer program, computer system, or computer network.
- (vii) Placing an object on, or delivering or having delivered an object to, property owned, leased, or occupied by the victim.
- (k) "Victim" means the individual who is the target of the conduct elicited by the posted message or a member of that individual's immediate family.

History: Add. 2000, Act 475, Eff. Apr. 1, 2001.

750.411t Hazing prohibited; violation; penalty; exceptions; certain defenses barred; definitions; section title.

Sec. 411t. (1) Except as provided in subsection (4), a person who attends, is employed by, or is a volunteer of an educational institution shall not engage in or participate in the hazing of an individual.

(2) A person who violates subsection (1) is guilty of a crime punishable as follows:

(a) If the violation results in physical injury, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$1,000.00, or both.

(b) If the violation results in serious impairment of a body function, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$2,500.00, or both.

(c) If the violation results in death, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(3) A criminal penalty provided for under this section may be imposed in addition to any penalty that may be imposed for any other criminal offense arising from the same conduct.

(4) This section does not apply to an individual who is the subject of the hazing, regardless of whether the individual voluntarily allowed himself or herself to be hazed.

(5) This section does not apply to an activity that is normal and customary in an athletic, physical education, military training, or similar program sanctioned by the educational institution.

(6) It is not a defense to a prosecution for a crime under this section that the individual against whom the hazing was directed consented to or acquiesced in the hazing.

(7) As used in this section:

(a) "Educational institution" means a public or private school that is a middle school, junior high school, high school, vocational school, college, or university located in this state.

(b) "Hazing" means an intentional, knowing, or reckless act by a person acting alone or acting with others that is directed against an individual and that the person knew or should have known endangers the physical health or safety of the individual, and that is done for the purpose of pledging, being initiated into, affiliating with, participating in, holding office in, or maintaining membership in any organization. Subject to subsection (5), hazing includes any of the following that is done for such a purpose:

(i) Physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity.

(ii) Physical activity, such as sleep deprivation, exposure to the elements, confinement in a small space, or calisthenics, that subjects the other person to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iii) Activity involving consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance that subjects the individual to an unreasonable risk of harm or that adversely affects the physical health or safety of the individual.

(iv) Activity that induces, causes, or requires an individual to perform a duty or task that involves the commission of a crime or an act of hazing.

(c) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, cooperative, club, service group, social group, athletic team, or similar group whose members are primarily students at an educational institution.

(d) "Pledge" means an individual who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in any organization.

(e) "Pledging" means any action or activity related to becoming a member of an organization.

(f) "Serious impairment of a body function" means that term as defined in section 479a.

(8) This section shall be known and may be cited as "Garret's law".

History: Add. 2004, Act 111, Eff. Aug. 18, 2004.

750.411u Associate or member of gang; commission or attempt to commit felony; membership in gang as motive, means, or opportunity; penalty; definitions; consecutive sentence.

Sec. 411u. (1) If a person who is an associate or a member of a gang commits a felony or attempts to commit a felony and the person's association or membership in the gang provides the motive, means, or opportunity to commit the felony, the person is guilty of a felony punishable by imprisonment for not more than 20 years. As used in this section:

(a) "Gang" means an ongoing organization, association, or group of 5 or more people, other than a nonprofit organization, that identifies itself by all of the following:

(i) A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, geographical or territorial sites, or boundary or location.

(ii) An established leadership or command structure.

(iii) Defined membership criteria.

(b) "Gang member" or "member of a gang" means a person who belongs to a gang.

(2) A sentence imposed under this section is in addition to the sentence imposed for the conviction of the underlying felony or the attempt to commit the underlying felony and may be served consecutively with and preceding any term of imprisonment imposed for the conviction of the felony or attempt to commit the felony.

History: Add. 2008, Act 564, Eff. Apr. 1, 2009.

750.411v Causing, encouraging, recruiting, soliciting, or coercing another to join, participate in, or assist gang in felony; violation as felony; threat of injury or damage as felony; additional sentence; definitions.

Sec. 411v. (1) A person shall not cause, encourage, recruit, solicit, or coerce another to join, participate in, or assist a gang in committing a felony. A person who violates this subsection is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both.

(2) A person shall not communicate, directly or indirectly, to another person a threat of injury or damage to the person or property of that person or to an associate or relative of that person with the intent to do either of the following:

(a) Deter the other person from assisting a gang member or associate of a gang to withdraw from the gang.

(b) Punish or retaliate against the other person for having withdrawn from a gang.

(3) A person who violates subsection (2) is guilty of a felony punishable for not more than 20 years or a fine of not more than \$20,000.00, or both.

(4) A sentence imposed under this section is in addition to a sentence imposed for the conviction of another felony or attempt to commit a felony arising out of the same transaction and may be ordered to be served consecutively with and preceding a term of imprisonment imposed for the conviction of that felony or attempt to commit that felony.

(5) As used in this section:

(a) "Gang" means an ongoing organization, association, or group of 5 or more people, other than a nonprofit organization, that identifies itself by all of the following:

(i) A unifying mark, manner, protocol, or method of expressing membership, including a common name, sign or symbol, means of recognition, and geographical or territorial sites, or boundary or location.

(ii) An established leadership or command structure.

(iii) Defined membership criteria.

(b) "Gang member" means a person who belongs to a gang.

History: Add. 2008, Act 563, Eff. Apr. 1, 2009.

750.411w Automated sales suppression device or zapper, phantom-ware, or skimming device; sale, purchase, installation, transfer, or possession prohibited; violation as felony; liability for taxes and penalties; exception; definitions.

Sec. 411w. (1) A person shall not knowingly sell, purchase, install, transfer, or possess in this state any automated sales suppression device or zapper, phantom-ware, or a skimming device.

(2) A person who violates subsection (1) is guilty of a felony and shall be imprisoned for not less than 1 year or more than 5 years and, in addition, may be fined not more than \$100,000.00.

(3) A person who violates subsection (1) is liable for all taxes and penalties due the state as the result of the

fraudulent use of an automated sales suppression device, phantom-ware, or a skimming device and shall disgorge all profits associated with the sale or use of an automated sales suppression device, phantom-ware, or a skimming device.

(4) Subsection (1) does not apply to equipment or technology utilized by a law enforcement officer while the officer is in the lawful performance of his or her duties as a law enforcement officer.

(5) As used in this section:

(a) "Automated sales suppression device" or "zapper" means a software program carried on a memory stick or removable compact disc, accessed through an internet link, or accessed through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale systems, including, but not limited to, transaction data and transaction reports.

(b) "Electronic cash register" means a device that keeps a register or supporting documents through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling, or processing retail sales transaction data in whatever manner.

(c) "Financial transaction device" means that term as defined in section 157m of the Michigan penal code, 1931 PA 328, MCL 750.157m.

(d) "Personal identifying information" and "personal information" mean those terms as defined in section 3 of the identity theft protection act, 2004 PA 452, MCL 445.63.

(e) "Phantom-ware" means a hidden, preinstalled, or installed at a later time programming option embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate transaction records that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

(f) "Skimming device" means any combination of devices or methods that are designed or adapted to be placed on the physical property of another person and to obtain the personal information or personal identifying information of another, or any other information that allows access to a person's financial accounts, from a financial transaction device without the permission of the owner of the financial transaction device.

(g) "Transaction data" includes information regarding items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(h) "Transaction report" means a report that includes, but need not be limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

History: Add. 2012, Act 146, Eff. Aug. 29, 2012;—Am. 2013, Act 212, Eff. Apr. 1, 2014.

750.411x Cyberbullying prohibited; violation as misdemeanor; violation as felony; definitions.

Sec. 411x. (1) A person shall not cyberbully another person.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(3) A person who violates subsection (1), and who has a prior conviction for a violation of subsection (1), is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(4) A person who violates subsection (1) in a manner that involves a continued pattern of harassing or intimidating behavior and by that violation causes serious injury to the victim is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. As used in this subsection, "serious injury" means permanent, serious disfigurement, serious impairment of health, or serious impairment of a bodily function of a person.

(5) A person who violates subsection (1) in a manner that involves a continued pattern of harassing or intimidating behavior and by that violation causes the death of the victim is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(6) As used in this section:

(a) "Cyberbully" includes posting a message or statement in a public media forum about any other person if both of the following apply:

(i) The message or statement is intended to place a person in fear of bodily harm or death and expresses an intent to commit violence against the person.

(ii) The message or statement is posted with the intent to communicate a threat or with knowledge that it will be viewed as a threat.

(b) "Pattern of harassing or intimidating behavior" means a series of 2 or more separate noncontinuous acts of harassing or intimidating behavior.

(c) "Public media forum" means the internet or any other medium designed or intended to be used to convey information to other individuals, regardless of whether a membership or password is required to view the information.

History: Add. 2018, Act 457, Eff. Mar. 27, 2019.